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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable JACK REED, Senator from the State of Rhode Island.

PRAYER

The PRESIDING OFFICER. The prayer will be offered today by the guest Chaplain, the Rev. Dr. Frederick W. Pfotenhauer, from Hilltop Lutheran Church of the Ascension, South Bend, IN.

The guest Chaplain, offered the following prayer:

Holy God, Wisdom Eternal, at the time Your Spirit breathed over the Earth and gave life and heart to all that is, You also called all people to be participants in Your holy actions. Enable each of us, especially those elected to this United States Senate and charged with being the voice of the people who inhabit this beloved land, to recognize our responsibility as conduits for these Your holy actions. Our prayer this morning, in voices lifted to You, resonates not only with the men, women, and children of our country but with the voice of humanity throughout the world and across the centuries. And so we, the family of the Senate, desiring to be filled anew this day with Your Spirit, Your wisdom, and Your purpose, plead with You to hear once more the prayer of Francis of Assisi.

Lord, make me an instrument of Your peace; where there is hatred, let me sow love; where there is injury, pardon; where there is doubt, faith; where there is despair, hope; where there is darkness, light; where there is sadness, joy.

O Divine Master, grant that I may not so much seek to be consoled as to console, to be understood as to understand; to be loved as to love.

For it is in giving that we receive, it is in pardoning that we are pardoned. And it is in dying that we are born to Eternal Life. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JACK REED led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 25, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JACK REED, a Senator from the State of Rhode Island, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. REED thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. REID. The first hour, as the Chair will shortly announce, will be a period of morning business. The Republican leader has control of the first half, and the Democratic leader has control of the second half.

At 10:30, we will begin consideration of the motion to waive the Budget Act with respect to the Rockefeller amendment. There will be 1 hour of debate on that and a vote thereafter.

Last night, a unanimous consent agreement was entered into between the two leaders that allows the majority leader to call up the legislative branch appropriations bill, which probably will be done sometime today. Following that, we may even go to the Defense bill. The order is we go to that before next Wednesday.

In the meantime, there is work being done. People worked in the Capitol until late last night trying to come up with some sort of amendment dealing with prescription drugs. We need a bipartisan agreement on that. It was a bipartisan group meeting last night.

The Senator from Oregon, the junior Senator from Oregon, Senator SMITH, wishes to speak for a few minutes now, and I ask unanimous consent he be allowed up to 3 minutes to speak.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Oregon.

GUEST CHAPLAIN DR. FREDERICK W. PFOTENHAUER

Mr. SMITH of Oregon. Mr. President, it is my privilege today to say a few words about the reverend doctor who offered a word of prayer on behalf of this country and this institution this morning.

The Rev. Dr. Fritz Pfotenhauer has given me permission to refer to him personally as Fritz, but he is a most distinguished pastor and minister of the gospel. He is the pastor of the Hilltop Lutheran Church in South Bend, IN. He is descended from a long line of Lutheran ministers in an unbroken father-son succession dating back to the time of the great reformer, Martin Luther.

Dr. Pfotenhauer completed his Ph.D. in pastoral theology at the University of Notre Dame where he also taught for 20 years until his retirement recently.

He will also retire at the end of this year as the pastor of Hilltop Lutheran after 36 years of service to that community and 46 years as an ordained minister.

I think it is significant that this good brother is not just trained for the ministry and knows the ivory tower and knows the depths of theology, but he knows how it is to minister, how it is to change the human heart and help lift people from the wrong path. This is a man, as you meet with him, who can talk deep in terms of gospel principles but also knows personally what it is like to change the human heart and to set it on the course of righteousness.

Pastor Pfotenhauer is the father of Kurt Pfotenhauer, who is my friend and my former chief of staff for nearly 6 years. Dr. Pfotenhauer's wife, Carolyn, is in the audience today. We welcome her. We honor her, as well as her grandsons, Jon and Ben, and her daughter-in-law, the pastor's daughter-in-law, Kurt's wife, Nancy. They are all with him today.

We honor you, sir. We thank you for your service to us today. We thank God for your service to his children.

I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m. with Senators permitted to speak therein for up to 10 minutes each. Under the previous order, the first half of the floor time will be under the control of the Republican leader or his designee, and the final half of the time shall be under the control of the Democrat leader or his designee.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

THE STATE OF THE ECONOMY

Mr. DOMENICI. The Republican leader has designated the Senator from New Mexico to control the time. I yield myself 10 minutes.

Mr. President, fellow Senators, a week ago the Federal Reserve Chairman, Alan Greenspan, testified before the Senate Banking Committee. It is important to take note of what he said at that hearing and where he thinks our economy is headed. Despite the obvious bear market which prevailed until yesterday, when we had a rather significant bull market for the day, our economy's fundamentals are strong.

Despite this bear market, our economy is not headed for another recession in the near future. Productivity growth is rapid. Inflation is low. Mortgage rates are also low, as everyone knows. That has kept the housing market very strong.

Families have been taking advantage of these low-income rates by buying homes at a record pace and refinancing old ones, thus yielding either lower payments or cash at hand which they are using to acquire what they believe they need.

Notice that those who claimed that the tax cut would lead to higher interest rates have been very quiet of late, at least on that point. The Federal Reserve sees the economy as growing at about a 3-percent rate in the second half of this year and even faster next year. The unemployment rate will probably end the year at about 5.9 percent. That is about right where it is now.

Next year, the jobless rate could drop to about 5.4 percent. This does not mean the outlook lacks uncertainty. The recent weakness in the stock market is important. The American people are worried, concerned. Lower equity prices create a negative wealth effect that will be a drag on consumer spending, as I have just indicated. Lower stock prices also make it tougher for businesses to acquire the capital they need to invest. Slow business investment continues to be our economy's weakest point. And, of course, we still face the risk of further terrorist attacks or other conflicts that could disrupt the energy market.

Chairman Greenspan also observed:

> To a degree, the return to budget deficits has been the result of temporary factors, especially the falloff of revenue, of tax take, and the increase in outlays associated with the economic downturn.

But the chairman also observed that unfortunately, despite these temporary factors impacting the deficit, he also saw signs that the underlying disciplinary mechanisms that form the framework for Federal budgets over the last 15 years have eroded.

I would say one of the most obvious ''disciplinary mechanisms,'' to borrow his words, is the adoption of a congressional budget. I have spoken in the past here on the floor about the failure to adopt a budget resolution this year. Clearly, this is the one thing we can do in the Congress to send a message to the American public and to the markets that we understand the importance of having a budget in these difficult economic times. So far we have failed as elected officials to do the most essential of our responsibilities—adopt a budget.

Clearly, the other side of the aisle, the Democrats and their leadership, bear that responsibility, the responsibility to have continued on with the budget process and to have produced a budget resolution. We know that even on this most serious of debates, with reference to prescription drugs for our seniors, the absence of a budget resolution has found its way here to the floor.

Because there is not a budget resolution that impacts for the remainder of this year, we then look to the previous year for the impacts, plus or minus impacts, on adopting a prescription drug bill. Lo and behold, we find the previous year's budget, the budget that this Senator, as chairman, helped put together, is now impacting and will through the remainder of this fiscal year be impacting on what we can do in Medicare. Clearly, it is saying we can only spend $300 billion over the next decade. That was the judgment of the Senate when it last voted in a budget resolution.

Things have not gotten better but perhaps have gotten somewhat worse during that intervening year. We are here on the floor discussing a Medicare bill that is much larger than what we talked about the year previous when we had a rather positive economy, not one that was in the red but one that was in the black.

Now the question is, What shall we do for the remainder of this year, up until October 1, when all the appropriations bills are subject to adoption in both Houses, to go to conference, come back, and then go to the President—when all the other measures on which we have been going slow, or are in conference, have to come up? Are we going to have no budget resolution nor budget statement impacts on any of those activities, the sum total of which are the budget, and determine, starting October 1, what we shall do?

It makes it difficult. Even the distinguished chairman of the Appropriations Committee, the President pro tempore, responding to a question about how not having a budget would affect the ability to work on appropriations bills, said—and I quote from The Hill magazine:

> It makes it difficult because we don't have the disciplinary mechanisms at our fingertips that would otherwise be the case if we had a budget.

The Appropriations Committee, under his leadership and that of Senator STEVENS as ranking member, is fully aware their appropriations bills, one by one, when added together are the sum total of the budget for the year starting October 1. They have recommended on one of the bills that there be a sense of the Senate that they will engage in attempting, with the Senate, to bind themselves to the numbers in the appropriations bills, saying we will be bound by those even though we do not have a budget resolution that would normally give the numbers, prescribe them to the committee.

I gather that means the Budget Committee chairman and ranking member—with that language, that sense of the Senate, saying that we will be bound by the sum total of the allocations to the subcommittees—I gather they clearly are concerned that if we do not have something, the bills eventually will be subject to whatever the Senate would vote in and have no overlying power that says you can't go over this or you suffer some kind of penalty.

Senator BYRD and Dr. Greenspan have spoken. I tried on two or three occasions on the floor to remind us, as Senator JUDD GREGG has, and some

Democrats have taken to the floor concerned about the fact that we don't have any discipline. It makes it difficult because we don't have the disciplinary mechanisms at our fingertips. That is what the distinguished chairman of the Appropriations Committee said a few days ago.

A couple of weeks ago, absent a real budget resolution, we came close to adopting at least a poor version of a budget by trying to set spending caps for the appropriations process, enforceable only here in the Senate next year, and extending with Senate enforcement tools some expiring Budget Enforcement Act provisions.

But let it be clear, this is not a budget resolution.

The PRESIDING OFFICER. The Senator has used 10 minutes.

Mr. DOMENICI. I ask unanimous consent for 5 additional minutes.

The PRESIDING OFFICER. Without objection, the Senator may continue.

Mr. DOMENICI. Let it be clear this was not a Senate budget resolution on which we voted. It was an attempt to address just a small portion of the Federal spending that indeed will take place between now and the end of next year. Let it be clear that this is not a budget resolution because it only applied to appropriations, and budget resolutions go well beyond the appropriations bills which constitute about one-third of the spending of our Nation. Two-thirds are subject to other approaches to spending, mandatory approaches—they are automatic, like Social Security, like Medicare. And the sum total of all those—Federal pensions, military pensions and on and on—the sum total of all of those mandatory, obligatory ones is two-thirds of the spending. A real budget would address the other two-thirds, that which we call generally entitlement spending.

I think we are now beginning to see firsthand what it means not to have a budget resolution as we are here on the floor debating adding new spending to one of the largest Federal entitlement programs, the Medicare Program. The process does matter. An updated budget resolution would have updated our spending estimates and we would now be debating these prescription drug amendments to the current Medicare Program in a more honest and transparent manner.

I think it is important that we listen up and we pay attention. This is a very serious situation. If in fact spending were to get out of hand, we hear Alan Greenspan warning us that one of the most significant qualities, characteristics of this American economy—one of the most serious ones would be for those who understand budgets to conclude that the fiscal policy is out of hand, that we don't know where it is going, and we don't know how much we are going to spend. I don't think that is the case.

But some who would look at what we have done and not done might conclude that we are not as committed as we were a couple of years ago when we had budgets, reserve funds, and all the kinds of things we have grown to use around here.

It is obvious we just have projections and estimates of costs based on the Congressional Budget Office and their most current projections. But because we don't have a budget resolution that is based on current estimates, the procedural points of order that lie against all of these amendments result from the fact that last year's budget resolution is the only one we have, and it was estimated using an entirely different set of projections.

What this says is we are using enforcement tools that were in last year's budget based upon where we are going to be with reference to expenditures, tax intake, and, thus, deficits, or being in the black and with a surplus.

Regardless of whose amendment one supports, not having a current budget resolution penalizes all proposals. This is not the way to consider one of the most important and probably most expensive legislative proposals to come before the Congress in years; that is, prescription drug provisions that we are debating.

We therefore see the failure to adopt a budget resolution, we see it impacting on the way the Senate can conduct business here on the floor. We are tied up in trying to consider a prescription drug bill while bypassing the Senate Finance Committee. If the majority leader chooses to proceed without waiting for, or without expecting and relying upon a bill that the Finance Committee and committee debate produces and sends to the Senate, that is his prerogative.

I believe in these particular times, with all of the facts I have just described, that it is not the best way to do it. But there are even other reasons beyond budgetary that cry out for it not being the best way to conduct business—be it an energy bill, which we did directly on the floor and didn't have language from a committee as a formal bill with the appropriate documents attendant thereto, to many others that we are taking up out of the majority leader's office and putting up here on the floor without the committee authentication which comes from the committee debate, which is a very heralded and important part of the Senate process.

Chairman Greenspan also spoke specifically about the other rules that were incorporated into the Budget Act and, thus, are in the budget. They came into being when our country had another bad time. We went out and met at Andrews Air Force Base. We came back with a series of proposals, one of which was called a pay-go, and spending caps. These are devices that helped at least provide some tools for statutory and congressional fiscal policy deliberations. These were enforced by points of order. The point of order lied. These provisions were operative—or any one of them. Then we were penalized and had to have 60 votes rather than 51.

That is wherein the drug bill lies in terms of the process. This is something we can do.

I have introduced legislation to extend the budget enforcement provisions, including the spending caps, establishing firewalls that go between the nondefense and defense, pay-go rules impacting the mandatory spending programs and tax revenues, limitations on the advanced appropriations, and other provisions that I believe are the minimum needed to maintain some semblance of statutory and congressional budget authority.

Let it be clear that this legislation is not a budget resolution, it is strictly enforcement provisions. But it is the heart and soul of budget enforcement mechanisms that would be here if we were adopting a budget under the existing budget law. It is essential that we do at least this much, and we ought to give serious consideration to doing it before this year ends.

I once again borrow the language of Dr. Greenspan when he calls all these things disciplinary mechanisms. We need to reassert them—something Chairman Greenspan and Chairman BYRD reminded us that we need. This is important to the way we conduct business and the signal it sends to the markets and the economy.

Also, my colleagues joined in other legislation that I hope we can find some way to have adopted before the new fiscal year begins on October 1. I have heretofore introduced a summary of this proposal. After getting closer and talking to more people, I put some more flesh on it. I don't want to formally introduce it, but I want to send attendant to this speech, following it, a proposal that will be called a bill. It indeed would be the proposal I have summarized that, as a minimal, we would need. I hope Senators will pay attention to it.

Perhaps by the end of the day today we can find out whether there is a genuine interest. If there is not, then obviously I believe I have done my best to call attention to it and to provide how it might be done. I submit that there is indeed a possibility that if this were to pass and the Senate were to adopt it, and since it applies only to us—the House offers it through its Rules Committee—if we were to adopt it, I have every reason to believe it would have a positive impact on those who are wondering what is our fiscal policy after this October and into a year with new so-called disciplinary functions available.

I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. CLINTON. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. STABENOW). Without objection, it is so ordered.

12TH ANNIVERSARY OF ENACTMENT OF THE AMERICANS WITH DISABILITIES ACT

Mrs. CLINTON. Madam President, I rise today to recognize the 12-year anniversary of an incredibly important step in America's continuing effort to expand the circle of opportunity and to realize a more perfect union.

Twelve years ago today, the Americans with Disabilities Act became law. When we think about that remarkable day in history, we remember the relentless efforts of some of our colleagues who took such leadership in this important expansion of civil rights protections. Senators HARKIN and KENNEDY used their positions of power to fight for those with little or no power. Their work opened the doors to people with disabilities in much the same way as the Civil Rights Act had done three decades earlier for other Americans.

We also remember the people who fought behind the scenes, those who tenaciously and selflessly advocated for equal access because they knew that people with disabilities were being excluded from schools, from jobs, from the most fundamental participation in our American way of life.

One such person—someone whom I was very proud to call my friend—was truly the heart and soul of the disabilities civil rights movement. That person was Justin Dart. We lost a great American and a great leader with Justin's death on June 22. But because of his lifelong commitment to ensuring the rights and dignity of every single American, we will never forget him. He was not only a great and tireless leader, he was an extraordinary human being. Anyone who ever saw him, with his cowboy hat and his infectious grin, would never forget him.

Justin Dart's passionate advocacy led many to refer to him as the Martin Luther King of the disabilities movement. So on Martin Luther King's birthday, January 15, 1998, my husband, President Bill Clinton, awarded Justin the Medal of Freedom, our Nation's highest civilian award. We also invited Justin back to the White House when we honored the 10th anniversary of the Americans with Disabilities Act. And throughout my tenure as First Lady, and since becoming a Senator from New York, I often sought his guidance on health and disabilities issues.

Justin Dart's leadership changed the way we, as a society, think about people with disabilities. We all know—those of us who have lived long enough—that at one time we presumed a disability meant a lifetime of dependence. Now we know better. We know that we have countless Americans, of all ages, with disabilities who not only want to but can lead independent lives to contribute to the quality of our lives and our Nation's prosperity. That is why, in 1998, the Clinton-Gore administration formed the Presidential Task Force on Employment of Adults with Disabilities, and then in the year 2000 expanded its mission to include young people.

This task force has been instrumental in helping us understand the challenges that still confront Americans with disabilities and in understanding, despite the extraordinary progress we have made since the ADA was passed, we still have a very long way to go.

According to a recent survey of Americans with disabilities conducted in 2000, 56 percent of 18- to 64-year-olds with disabilities who were able to go to work were employed in 2000. That is up from 47 percent in 1994.

That is progress, but we also have to recognize that 44 percent of Americans with disabilities are still not working. Justin himself eloquently expressed the status of Americans with disabilities on the 7th anniversary of the ADA when he said:

The job of democracy is far from finished. Millions and millions of people with disabilities, in America and other lands, are still outcast from the good life.

In Justin's honor, we simply have to do better.

One of the ways I will keep honoring Justin Dart's legacy is to continue the fight for equal access and full funding under the extraordinarily important legislation passed 25 years ago to provide education for children with disabilities. The Individuals with Disabilities in Education Act, known as IDEA, has literally transformed the lives of countless American children.

I have a particular connection with that law because, as a young lawyer just out of law school in 1973, I went to work for the Children's Defense Fund. We could not understand why, if you looked at census tracks and saw how many children were living in a particular area between the ages of 5 and 18 and compared that with the number of children enrolled in school, there was a discrepancy. There were children we knew living in an area but they were not in school. Where were they?

We could not understand it by just looking at the statistics so we literally went door to door to door. I was knocking on doors in New Bedford, MA, asking people did they have a child who was not currently enrolled in school. I found blind children, deaf children, children in wheelchairs, children who were kept out of school because there were no accommodations for their education.

I remember going into a small apartment that opened out on to a tiny terrace where the family had constructed a grape arbor, and it was a beautiful apartment with a small garden. A little girl was sitting in a wheelchair out on this little terrace on a summer afternoon. She had never been to school.

We then, working with many other advocates for children and people with disabilities, wrote a report and engaged in the debate which led to the passage of the Individuals with Disabilities in Education Act in 1975.

This year the HELP Committee, on which I serve, is beginning the hard work of reauthorizing this important legislation. When it was passed in the Congress in 1975, we made a promise that the Federal Government would pay 40 percent of the cost of educating children with disabilities. I thought that was a fair bargain because, clearly, educating a child who is blind or deaf or in a wheelchair and needs more help, therefore, requires more resources which is going to raise the costs for local communities. But it was another example of America doing the right thing.

It has made such a difference. Anyone who goes into schools today and sees bright young children raising their hand from their wheelchair or walking down the hallway on braces with their friends or having someone help with the reading because they are blind knows what a difference it has made, not only for the children with disabilities but for all children and for the kind of society we are.

Unfortunately, the Federal Government has never paid its fair share. That is something that has to change. That is something about which I often talked to my friend Justin Dart. He would have wanted us to keep going with the fight to ensure that all Americans are treated with dignity.

He had a very astute way of looking at life and actions in Washington. He once said:

The legitimate purpose of society and its government is not to govern people and to promote the good life for them, but to empower them to govern themselves and to provide the good life for themselves and their fellow humans.

As usual, Justin Dart summed it up. The Americans with Disabilities Act provided a firm foundation on which to build that empowerment, to ensure that every boy and girl, no matter what their physical or mental status might be, is viewed with the same respect and caring that every other human being deserves as well.

Justin Dart lived it. He advocated. He harassed. He reminded. He prodded and promoted all of us to do better. He himself was confined to a wheelchair. He lived with a great deal of pain, but that smile never left his face. With his beloved wife and family, he showed up whenever the call was sounded for his championship on behalf of people who he never forgot and for whom he never stopped fighting.

We will miss Justin Dart, but it is up to us to continue his legacy and to ensure that the work to which he gave his life continues in his honor and on behalf of the countless young Americans who might never know his name but who are given a chance to chart their own destinies because he came before.

I thank my friend Justin Dart and wish him and his wonderful family Godspeed.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. STABENOW. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. CLINTON). Without objection, it is so ordered.

Ms. STABENOW. I thank the Senator from New York for stepping into the Chair for a moment this morning so I might share a few comments. I also congratulate her on a very eloquent statement about an extremely important gentleman, Justin Dart, whom I knew not as well as the Senator from New York but for whom I had tremendous admiration. I align myself with the comments concerning special education and what needs to be done. I thank the Senator for her advocacy this morning on that very important topic.

PRESCRIPTION DRUGS

Ms. STABENOW. Madam President, I rise this morning to comment on another very important topic that is before us and to urge my colleagues to come together to get something done. We have been talking a lot about Medicare and the fact it is outdated, that it needs to be modernized to cover prescription drugs.

We had a very significant vote 2 days ago. It was historic. It was the first time the Senate, since 1965, has come together to vote to modernize Medicare. A majority of us, 52 Members, voted yes. I commend my Republican colleague—which was the one Republican vote joining us—the Senator from Illinois, for joining us in that effort.

A statement was made by a majority of the Senate, and I believe it reflects the will of the majority of Americans. We have a health care system for older Americans, a promise of comprehensive health care for older Americans and the disabled that was put into place in 1965. It has worked. The only problem is that the health care system has changed. We all know that. We have all talked about it many times.

What I find disturbing at this moment, in light of the fact that we need 60 votes—we need 8 more people; we need 8 of our Republican colleagues from the other side of the aisle to join us to actually make this happen—in light of the success of Medicare, too many times I am hearing words such as ''big Government program'' from my Republican colleagues in the House. They refer to Medicare as a ''big Government program,'' and there are times I have heard that in this debate from the other side of the aisle.

I am here to say I think Medicare is a big American success story. It is a big American success story, just as Social Security is a big American success story and one that we should celebrate.

I worry, as I hear comments from our President about moving in the direction of wanting to privatize Social Security, wanting to move Medicare to the private sector and privatize it, that we are moving away from not only a commitment made but a great American success story. It has worked, and I think often now of those people such as Enron employees or WorldCom employees who have lost their life savings who have said to me: Thank God for Social Security and Medicare or I would have nothing. If Medicare was not there, they would have no health care.

These are great American success stories. At this time in 2002, at this moment in July, we have an opportunity to make history so that when others read the history books and look back, they will find we took the next step to modernize a system that provided health care for older Americans and the disabled for over 35 years.

I want to read a couple of stories from Michigan. I have set up a prescription drug people's lobby in Michigan and asked people to share their stories and to get involved because we know there is such a large lobby on the other side.

As we all know and have said so many times, there are six drug company lobbyists for every one Member of the Senate. Their voice is heard every day. It is also heard on TV. It is heard on the radio. There is a full-page ad in Congress Daily from the drug company lobby that was brought to my attention urging us to oppose the amendment we passed to open the border to Canada.

Heaven forbid that we add more competition. Heaven forbid that American citizens be able to buy American-made drugs that they helped create through taxpayer dollars, but they are sold in Canada for half the price they are sold in the United States. Heaven forbid that American consumers would have the chance to do that. So they have an ad, and I am sure there are many more. I am not sure how much it costs. I prefer the money that is being spent on this ad and other ads on television and the $10 million being spent on ads supporting the drug company version would be put into a Medicare benefit or lowering prices. That would be certainly much more constructive in the long run.

The reality is that something has to be done because the system is just out of control, and it will not change unless we act because there is too much money at stake. Just as we have debated corporate responsibility in other settings—and I applaud colleagues who have come together to agree on a final plan related to legislation for corporate responsibility and accountability—this, too, is an issue of corporate responsibility, corporate ethics, as it relates to pricing lifesaving medicine. And how far is too far?

Let me share stories that have come to me from various individuals in Michigan. This is one from Christopher Hermann in Dearborn Heights, MI. He writes:

I am a nurse practitioner providing primary care to veterans. I am receiving many new patients seeking prescription assistance after they have been dropped by traditional plans and can no longer afford medications. Many of them have more than $1,000 a month in prescription drug costs.

The vets are lucky. We can provide the needed service. Their spouses and neighbors are not so lucky.

I also have such a neighbor. Al is 72, self-employed all his life with hypertension. When he runs out of his meds due to lack of money, his blood pressure goes so high he has to go to the emergency room and be admitted to prevent a stroke. I provide assistance through pharmaceutical programs, but this is not guaranteed each month. We either pay the $125 per month for his medications, or Medicare pays $5,000-plus each time he is admitted. It is pretty simple math to me. It is pretty simple math.

We can either help people with their blood pressure medicine or medicine for their heart or medicine for sugar and all the other issues that need to be dealt with or we can pick up the pieces with hospitalization or worse that ultimately costs more to the system.

I very much appreciate Christopher Hermann sharing this story. I will not share more this morning. I thank those who have been sharing their stories with me.

I will close with one other story that was shared with me that has stuck with me since I read it a few weeks ago, and that was a little girl from Ypsilanti, MI. I have talked about this before, but I think this is important to remind us of what this legislation is about. She wrote a letter to me telling me that her grandma stopped taking her medicine at Christmas in order to buy Christmas presents for the grandkids. She later had health problems and passed away.

There is something wrong with the United States of America when grandmas are not taking lifesaving medicine to buy Christmas presents for their grandchildren. Ultimately, that is what this debate is about. It is about taking a great American success story, called Medicare, and simply updating it for the times. Let's say no to the drug companies and yes to all the grandmas and the grandpas across the country and to everyone who is counting on us to do the right thing.

I thank the Chair, and I yield the floor.

GREATER ACCESS TO AFFORDABLE PHARMACEUTICALS ACT OF 2001

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 812, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 812) to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals.

Pending:

Reid (for Dorgan) amendment No. 4299, to permit commercial importation of prescription drugs from Canada.

Rockefeller amendment No. 4316 (to amendment No. 4299), to provide temporary State fiscal relief.

Gramm point of order that the emergency designation in section C of Rockefeller

amendment No. 4316 (to amendment No. 4299), listed above, violates section 205 of H. Con. Res. 290, 2001 Congressional Budget Resolution.

Reid motion to waive section 205 of H. Con. Res. 290, 2001 Congressional Budget Resolution, with respect to the emergency designation in section C of Rockefeller amendment No. 4316 (to amendment No. 4299), listed above.

The PRESIDING OFFICER. Under the previous order, there will be 1 hour of debate on the motion to waive the Budget Act to be equally divided and controlled by the Senator from West Virginia, Mr. ROCKEFELLER, and the Senator from Texas, Mr. GRAMM.

Who yields time?

The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Madam President, this is an extremely important vote. It is very important because in the Congress we worry not only about the Nation as a whole, but as a nation of its individual parts, that is made up of 50 different States, all of whom are getting clobbered by something called a loss of Medicaid money.

We have a chance with the amendment before us to adjust that situation. We felt so strongly about the situation and the loss of Medicaid money for our most vulnerable citizens, and also the damage it does in the aggregate to our hospitals, nursing homes, and every part of our health infrastructure. Whether you are in an urban or rural area—and the Presiding Officer's State includes both urban and rural—you are faced with hospitals and other facilities that depend overwhelmingly on Medicaid.

The States now have an enormous shortfall in their budgets. In fact, there are deficits of $40 billion to $50 billion. No State, with the exception of Vermont, can go into deficit financing like we do in the Federal Government. They have to balance their budgets. So what happens if they get to a situation where they don't have money? I was a Governor for 8 years, and I was in that situation for a full 5 years, where we actually had to lower moneys because the revenue was less than the previous year. We had to lay off people and the other things Governors have to do.

We are in a position to help now. We have done nothing on health care, basically, except the children's health insurance program, which affects 2 million children, but it needs to affect many more. We have done nothing about universal health care, prescription drugs, or this Medicaid problem, and about virtually all of the areas of health care that we talk about all the time and simply do not perform on.

So this is a real test for the 100 people who will come here to vote on whether they want to see their States drown in debt and have to cut Medicaid and hurt not only children but families and hospitals and nursing homes and home health—all the aspects of where Medicaid makes a difference.

We felt so strongly about this after September 11, which was an enormous day in the history of the world, that we included this in the stimulus package. We did that prior to last Christmas, which was a long time ago. We did it and we decided it was so important to do, even at that time, it being a worse situation now, that we would treat it in an emergency fashion and not require it to be offset. Some people say you need to offset that. When you get into economic times like we have now—much worse than they were then—the underpinnings are weaker in general, and now we really do have to act.

So what I am going to do is not use up all of our time, but wait for some colleagues to come down to speak on this amendment and why it is important that we waive the Budget Act and that we do the right thing by States and Medicare. This is an extremely important vote; it is a test vote about whether the Senate is really willing to do anything for the States and for health care. So far, we have failed on all fronts. Now we have a chance to reverse ourselves on a small, but important, aspect of it.

We have, as I say, so many cosponsors that I will not even take the time to read them. But it is very bipartisan, with 35 cosponsors, including 8 Republicans. We should, in fact, prevail on this and get the 60 votes that we want because it is good. This is an emergency, I say to the Presiding Officer. This is important now even more so because Medicaid bears all of the brunt of the rising cost of prescription drugs because it is only Medicaid and the Veterans' Administration that pays for prescription drugs. This is not Medicare, this is Medicaid, and it is suffering terribly. This is an emergency. We deemed it such after 9/11. The situation is worse now. We have a chance to do something about it.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER (Ms. STABENOW). The Senator from Texas is recognized.

Mr. GRAMM. Madam President, one of the reasons I love this job is that you never reach a situation where you are able to say I have heard it all before. In much of life, as you live longer and longer, you get to the point where there is nothing new under the sun, where any new event had so many precedents for it that you understand it and you know it and you expect it. The wonderful thing about this job is that there is always a new proposal, always a new approach, always a new way of doing things that you would have never, ever thought of, and that you would have never believed that anyone else would have thought of.

I have spent 18 years in the Senate trying to deal with deficit spending. It has been a long, sometimes fruitful, sometimes not so fruitful, battle. I would have to say in the last year and a half, it has been a very unfruitful battle from my point of view because we started out with a surplus which literally burned a great big hole in our pocket. We literally could not spend the money fast enough.

Now, interestingly enough, we have a deficit. The last projection by the Congressional Budget Office is that we are going to spend, this year, $165 billion more than we take in. That deficit seems to grow every time there is a new projection. Yet our behavior is totally unchanged. In fact, I can say that in almost 25 years of service in the House and in the Senate, I have never seen the urge to spend money more unchecked in Congress than it is today. To me, it is a very frightening prospect as to what this is going to mean when all these bills come due.

Let me try to respond to the proposal before us because in so many ways, it is extraordinary. The logic of it is pretty straightforward. The States are in a position that, because of the state of the economy, many States are beginning to have deficits that used to have surpluses. In fact, it is projected now that unless something happens very positive and very dramatic in the next few months, that as many as 40 States will run deficits next year, or at least will face the prospects of deficits because many States, like my own, have to balance their budget. They will have to come into session in January, and they will have to make hard choices.

We don't make hard choices in Congress, but they will have to make hard choices in the legislature. When you add up the cumulative projected deficits for all 40 States that are looking at potentially being in the red, that accumulated aggregate deficit projection is about $40 billion.

Now, the proposal before us extraordinarily says let's declare an emergency so that we can spend another $9 billion that we don't have, every penny of which will come out of the Social Security trust fund; but let's go ahead and borrow that money now. Let's take it out of the Social Security trust fund and spend it so that States will not be required to make tough choices. The only problem is, our projected deficit is four times as great as the aggregate sum of all the deficits of all the States in the Union combined.

In fact, it would have made more sense—I would not have supported it but it would have made more sense had our dear colleagues proposed that we reduce Medicaid reimbursement because the States have a better financial situation than we do and, therefore, they are in a better position to deal with this problem.

I would not have supported that proposal because I do not think we want to beggar our neighbor in terms of imposing our problems on the States, but at least it could have been argued, with a deficit projected to be four times as big as all the State deficits combined, that we cannot be as generous as we wanted to be. That argument would make sense at Dicky Flatt's Print Shop in Mexia, TX. People would understand that argument in Oklahoma.

They might not like it. They might oppose it, but they would understand it. They would say it made sense, but I do not believe people at Hesser Drug Coffee Bar in Ennis, TX, or people anywhere in any State in the Union, would find logic in the Federal Government borrowing another $9 billion we do not have, taking the money out of the Social Security trust fund because every penny of this surplus is Social Security surplus. I do not think they would understand us declaring an emergency to spend this $9 billion to give it to States, that if we added up their total deficit is not one-fourth of the deficit that we are running right now.

So we basically are down to a question that we have to ask ourselves: Are we willing to declare an emergency to run a new deficit of $9 billion—spend $9 billion today, and in doing so, take $9 billion out of the Social Security trust fund? Are we willing to do that because States are running a cumulative deficit that is one-fourth as big as the deficit we are running? That basically is the question that is before us. It is easy for one to say this is a compassionate decision because they do not want their State to have to make a tough decision, but compassion is what one does with one's own money, not what one does with somebody else's money. This money is coming out of the Social Security trust fund. This money is coming from, ultimately, the taxpayer who is going to have to pay it back, plus interest.

If the proponents of this amendment were anteing up out of their own pockets, we could say they are compassionate about their States; they are worried about what will happen in States that have deficits. But it is not compassion when it is somebody else's money. The idea that we would run a $9 billion deficit today, that we would take $9 billion out of Social Security today to give to States that are running a deficit, that when added up among all the States in the Union is not one-fourth as big as the deficit we are running, it makes absolutely no sense.

I think, at least where I am from, and maybe where I am from is different than where other people are from, but in my State that would make absolutely no sense.

Finally, every time we talk about letting people keep more of what they earn, every time we have a debate about letting working families keep more of what they earn, many of our colleagues stand up and say we cannot afford it. We would like not to force families to sell their business or sell their farm when pappa dies so the Government can get 55 cents out of every dollar they have accumulated in their whole lifetime, even though they have paid taxes on every penny of it. Our colleagues tell us we do not like doing that but we do not have any choice because we do not have the money; we are running a deficit now.

When we talk about making the repeal of the marriage penalty permanent so we do not penalize people for the simple act of falling in love and getting married, both of them good things it seems to me, we are told that we would like to do that but we do not have enough money because we are now running a deficit.

Why is it we never, ever have enough money to let people keep more of what they earn but we always have enough money to spend? Why is there this huge difference? I would assert basically because deep down many Members of the Senate believe they can spend money better than families can spend money.

I have raised a point of order against this amendment, and I want to be sure my colleagues understand what the point of order is about. This amendment will force the Government to take $9 billion out of the Social Security trust fund and give it to the States at a time when all the States combined have a deficit that is not one-quarter the deficit of the U.S. Government. This is a very bad decision. I can see how it would be popular in the legislatures, but it cannot be good public policy to do this. So I urge my colleagues to sustain this budget point of order.

If our colleagues want to come back and say, look, this is important, we want to do this, and we are willing to take $9 billion away from something else that is not as important, then depending on what they take it away from I might be willing to support it. To simply say we want to give this money away, even though we do not have it, I do not believe that is a responsible position. As a result, I have raised the budget point of order.

I hope my colleagues who constantly talk about protecting the Social Security trust fund, I hope my colleagues who constantly talk about the fiscal irresponsibility of letting working people keep more of what they earn through tax cuts, will apply that standard today when we are gratuitously taking $9 billion out of the Social Security trust fund, borrowing it knowing we are going to have to pay it back plus interest. This is irresponsible policy. It should be stopped, and I urge my colleagues to sustain this budget point of order.

I reserve the remainder of our time.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. I yield 5 minutes to the distinguished Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. I thank my colleague from West Virginia. He has done such an able job in this challenge of finding a way to make the partnership between the States and the Federal Government on the Medicaid Program work in difficult times.

I respect a great deal my friend and colleague from Texas, who makes a very important point about spending in the Senate. If we were only talking about spending, then I think that argument might stand, but what we are really looking at is a partnership that was created between the Federal Government and the States and it is called the Medicaid Program, a joint partnership. The Federal Government underfunded it because it said we will have a match and our match will vary based on our particular situation as well as the situation of the States.

I remember as Governor of Nebraska when the Federal budget was being balanced and the Federal match was reduced. At the State level, my particular portion had to increase. So the Federal Government balanced its budget on the basis of my budget and at the expense at times of my budget.

Now we are looking at a situation in reverse. We have the States being challenged by growing red ink, and the Senator's comment about a budget of 40 States with deficits of somewhere around $40 billion, in a news article in the Chicago Tribune this morning, it was pointed out that the gap in those States may be about $58 billion rather than $40 billion.

The point is, this is a partnership, a federally mandated program partially funded under the idea that the State would have a responsibility and the Federal Government would have a responsibility. This is not about giving away money, this is about stopping the reduction in the Federal match for a period of 18 months and increasing it for a period of 18 months. It is not giving away money, it is assisting our partners in the process they are going through as they make difficult choices.

It has been suggested that this will keep them from making difficult choices. They have already cut education funding. They have already cut funding in many other programs. The cutting has only begun. We are hopeful that the cutting in the area of Medicaid and/or in social services will not cause the gains that have been made in having people go from welfare reform to work reverse themselves and start a spiral downward where the gains made can be lost.

All we are saying to the Federal Government is, do not reduce our portion right now and require, then, the States to make that choice about increasing theirs, which they cannot do; or cutting eligibility for Medicaid and causing, most likely, a downward spiral as they face the Medicaid uncertainties.

In addition to recognizing this is a responsibility we created—I was not here, but collectively the Federal Government created this under this Federal program—I think we have a responsibility. We are facing that responsibility. Yes, we are having some difficult times, but we need to share the difficult times together rather than stand on the sideline and say it is up to the States to make the difficult choices and see them make choices that will have adverse, and maybe in some cases draconian, results at the State level.

I understand the importance of trying to develop offsets. How can anyone

ever be against offsets? Let me state a few things that have flown in the face of asking for offsets—except where maybe you are not interested in seeing the program move forward. We passed yesterday the supplemental at a $28.9 billion total cost, $2 billion offset. A few of the things included $14.4 billion for defense—no one argues with that—or $6.7 billion for homeland security. How can anyone argue with that? Or $5.5 billion for New York, how can anyone argue with that? No request for specific offset for New York, no specific offset for homeland security, for defense. Or $1 billion for Pell grants, $417 million for veterans medical care, and $400 million for improvements to State and local election procedures, we all know how important those are. Or $205 million for Amtrak, we also know how important that is. But $2 billion worth of offset to $28.9 billion worth of budget.

I am not saying these are not important any more than anyone else is. I am suggesting that while they are important, so is this.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Madam President, I happily yield 5 minutes to the distinguished Senator from Maine.

Ms. COLLINS. Madam President, let's put the budget point of order of the Senator from Texas against our fiscal relief amendment into some context. The Senator's point of order, in essence, claims that the fiscal relief provided by our bipartisan amendment is somehow not emergency spending.

Let's look at the facts. Let's look at the situation. The Budget Enforcement Act of 1990 established statutory limits on discretionary spending and a pay-as-you-go requirement for new direct spending and tax legislation. But it also exempted from the caps all discretionary spending designated by the President and the Congress as an emergency requirement.

The law does not further define what is an emergency requirement. That is up to us. One place we can look for guidance, however, is to the criteria developed by the Office of Management and Budget for the President to use when determining whether or not a spending provision qualifies for emergency treatment. The Office of Management and Budget determined that an emergency spending provision is ''sudden, urgent, necessary, unforeseen, and not permanent.'' The funds that the amendment allocates to the States is all of those things. They meet the criteria precisely for emergency spending.

First, our amendment addresses a sudden and unforeseen problem. That is the unexpected drop in revenues States have experienced. Indeed, 39 States were forced to reduce their already enacted budgets for fiscal year 2002 by reducing essential programs, tapping rainy day funds, furloughing employees, and cutting important services. In short, the budget crisis was clearly a sudden and unexpected development for our partners as States.

The second relief our amendment provides is needed to address an urgent situation, another criterion. The latest figures show that 46 States are facing an aggregate budget shortfall exceeding $50 billion. Many have already cut or are considering cutting their Medicaid and social service programs.

Finally, the relief provided by our amendment is not permanent, it is short-term relief, narrowly tailored to address a fiscal crisis that the States are experiencing now.

In short, our amendment is a textbook example of the definition of ''emergency'' spending. It addresses a sudden, unforeseen, urgent crisis, and provides temporary but much needed relief.

Finally, we should not forget as we debate this issue what this is really all about. It is about protecting health care and other essential social services for the neediest and most vulnerable citizens in this country. Medicaid provides health insurance to approximately 40 million low-income Americans, including 21 million children and young adults, 11 million elderly and disabled individuals, and 8.6 million adults in families, most of whom are single women. Without this critical safety net, millions of low-income men and women and their families would be left with no health insurance.

That is the bottom line in this debate. We need to help the States so they can continue to provide essential health care to the most vulnerable citizens in our society. We are not taking the States off the hook. They are still going to have to make many tough choices in order to balance their budgets. But we can provide this meaningful relief. We must do so now in order to preserve that critical safety net for the most vulnerable in our society.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. How much time is remaining to this side?

The PRESIDING OFFICER. There are 14 minutes 20 seconds.

Mr. ROCKEFELLER. I yield to the Senator from Nebraska 4 minutes.

Mr. NELSON of Nebraska. Madam President, how much time was yielded?

The PRESIDING OFFICER. Four minutes was yielded.

Mr. ROCKEFELLER. We have 14 minutes left; is that correct?

The PRESIDING OFFICER. Four minutes was yielded to the Senator from Nebraska.

Mr. NELSON of Nebraska. Thank you, Madam President, and I thank my colleague from West Virginia.

I have never been to Dicky Flatt's and I hope my good friend from Texas will take me to Dicky Flatt's one of these days because it is, obviously, quite a place.

I imagine the folks in Dicky Flatt's, though, will be interested in what came from the supplemental—$22.9 million to upgrade port surveillance and vessel tracking capability in the ports in Port Arthur, TX, Houston, and New York City, NY, and $12.6 million to the Pantex Plant in Texas for increased safeguards and security needs.

The point is, folks in Dicky Flatt's or Elm Creek, NB, or other small communities and/or locations around the country, understand why some spending is necessary. They understand also that when you have a Federal program that is put together, as the Medicaid Program has been, that both parties have some responsibility to make sure it is viable so when times get difficult, one partner doesn't say to the other partner: Good luck, I hope you are able to make it.

Because now we have an opportunity to say this is our program together, at the Federal level and at the State level; we have an interest in seeing that the people who are the most vulnerable in our society are appropriately served; that the nursing homes do not cease to be able to provide services or that childcare provisions are not eliminated, which are transitional benefits to get, in many cases, single parents off welfare and into the workforce.

So as we think about offsets, I think it is important that we recognize that one person's offset is another person's idea of eliminating or destroying or in some way obstructing getting something accomplished.

What we have to do is make sure offsets are, in fact, included wherever we can possibly include them. But one of the reasons emergency spending issues and funding issues have not generally required offsets is because it is very difficult to be able to match it at the time. We cannot wait on this and we cannot fight out every offset people would like to talk about. That is why emergency disaster relief, in this case emergency spending—to go to our States for our share of the program for a period of time—just simply provides the opportunity to continue something and it has to be done immediately and the process then, I take it, is there for them.

We only seem to talk about offsets when it is convenient, or where we do talk about it and they are appropriate, it is when there is enough time to be able to put them together and get them accomplished.

The economic stimulus plan, when this was a part of it last year, did not have an offset. There was not a lot of discussion about offsets at that time. Unfortunately, this particular provision did not get included in the stimulus package that was passed earlier this year, although it should have been. If it had been, it would not have involved an offset.

It seems to me we have the opportunity to move forward as a partner with our States and to be able to assist them in very important policy matters and programs that I think will benefit the people of our country and will benefit our economy. That is why this was

included earlier in the economic stimulus package. There was a recognition it was part of the economic stimulus. I hope we will today recognize it, not only as the right thing and fair thing to do with our partners, the States, but also recognize that this has been considered part of the economic stimulus package.

I ask unanimous consent an article by Judith Graham entitled ''States' Budgetary Shortfalls Deepen'' be printed in the RECORD, and I yield the floor.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, July 25, 2002]

STATES' BUDGETARY SHORTFALLS DEEPEN

(By Judith Graham)

DENVER.—Concerned state legislators gathered here for their yearly meeting received sobering news Wednesday: State budget deficits have widened dramatically over the last several months, and the worst may be yet to come. Budget gaps are projected to reach $57.9 billion for the fiscal year that began July 1, up from the $35.9 billion deficit recorded during the previous 12-month period, according to a report by the National Conference of State Legislatures.

While states have plugged these holes by reducing spending and, in some cases, raising taxes, these solutions may not be enough. With turnoil roiling Wall Street, investors in a state of shock and costs for health-care programs such as Medicaid escalating sharply, ''We've anticipating deficits are going to grow even larger in the months ahead,'' said Corina Eckl, the group's fiscal affairs director. Consumers are feeling the bite of the states' financial woes in the form of higher tuition for public colleges, fewer services for at-risk kids, less help for elderly people trying to live independently in their homes, larger elementary school class sizes, as well as higher taxes.

States including Illinois are being hit particularly hard by the stock market's troubles, which have taken a big bite out of personal incomes and shaken consumer confidence. On average, more than one-third of state tax revenues comes from personal income taxes, with another sizable chunk coming from sales taxes. The falloff has been widespread: 26 states collected less money during their just-ended fiscal years than they did the year before, according to the conference's new study. ''For many states, this is the first time this has ever happened,'' said Arturo Perez, a budget analyst with the legislative group.

Reflecting a sense of pessimism, 46 percent of legislators polled at a Wednesday morning meeting said they thought revenues would remain flat or decline in the year ahead. Virtually all states are legally required to balance budgets. If so, hard choices may become even more difficult.

This past year, 19 states tapped into rainy day funds and 12 turned to tobacco settlement funds to make up for lower-than-expected revenues and keep spending cuts in check. But those reserves are now substantially smaller, leaving states with fewer options and more pressure to cut programs, said William Pound, the executive director of the National Conference of State Legislatures. One state facing acute pressure is Iowa, where revenues slid nearly 9 percent last year and spending was slashed nearly 6 percent below the previous year's levels. ''If you're a parent and you walk into the human services department and ask for help, you'll be told no services are available,'' said state Rep. Dave Heaton, co-chairman of the Iowa House's human services appropriations subcommittee. ''The most we can do is try to help existing clients.''

Among other budget-saving measures, Iowa has raised tuition at public colleges by nearly 20 percent, and instituted a hiring freeze for child protection services. With the number of workers down because of attrition and retirements, ''caseloads continue to rise and, to be honest, the attitude out there in the field is very stressful,'' said Heaton, a Republican from Mt. Pleaasant. ''I can tell you staffing at our boys' school and juvenile home, as well as our mental health facilities, is critical because of the cuts we've had to make,'' he said. ''No matter how small you want government to be, there are still things government has to do. And the problem I see now is we're getting to the point where we can't afford to do them.''

Ms. SNOWE. Mr. President, a particular problem facing not only the American people but also the States themselves—and that certainly includes my home State of Maine—is the rising cost of health care.

Today, Medicaid is the fastest growing component of State budgets, accounting for up to 20 percent of the average State budget, as costs increased by 11 percent last year and are expected to increase by another 13.4 percent this year. One of the components of this increase has been a corresponding increase in prescription drug costs as many states have discount prescription drug programs through Medicaid.

In addition, the economic downturn has left many families out of a job and without their health insurance, forcing them to turn to Medicaid. This put an enormous strain on the States, which were already facing tough budget decisions. In an effort to address their budgetary obligations, 22 States have cut Medicaid spending and 16 have cut programs that help low-income people.

The situation strained further by the fact that the Fiscal Year 02 FMAP allocations did not reflect the economic downturn and the resulting upswing in people needing assistance. In fact, due to the formula used to determine the match, 29 States found themselves with a smaller Federal match than in Fiscal Year 01.

As a result, many states have scaled back eligibility, reduced benefits, increased beneficiary cost-sharing, and cut or delayed payments to providers. Additional reductions in health care assistance, as well as cuts in other State-funded programs that serve many of those affected by the economic downturn, are expected. At this point in Maine's financial crisis, savings have been found elsewhere in the budget. However, my Governor has already made a call for a special session of the State legislature, which adjourned back on April 25 of this year, so that they can hammer out a solution to the ballooning deficit.

I am particularly concerned about the impact the State budget crunch will have on the Medicaid Program and the low-income children and families who rely on this program for essential health coverage. Last year, the House passed the Senate Centrists Economic Stimulus bill that I developed along with Senator BREAUX and others, and that proposal contained about $4.5 billion in emergency Medicaid funding to the States. Unfortunately, we could not get a vote on the proposal in the Senate.

In January, I voted to support an amendment by Senator HARKIN to the compromise economic stimulus bill that would have increased the FMAP by 3 percent for all States and 1.5 percent for States with higher than average unemployment rates, but the amendment was defeated.

Passage of this Rockefeller-Collins amendment would mean the infusion of about $54 million into my State of Maine—$36 million under the FMAP provisions alone. Maine is currently staring down the barrel of a $180 million budget shortfall. Many States face similar circumstances and still others face a figure many times that amount.

We do not want, and we certainly do not need, our States to reduce essential health care and social services to people in need in order to balance their budgets. The low-income families and seniors of this Nation should be able to rely on the continuation of these programs on which they have come to depend. The states should receive the help they need to continue their programs offering prescription drugs to seniors and low-income individuals and families. During these difficult fiscal times, our States need more federal assistance in providing health care services through Medicaid, not less.

I want to thank the Senator from West Virginia, Mr. ROCKEFELLER, and my colleague, Ms. COLLINS, for offering this amendment and I urge my colleagues to support our States and this amendment.

The PRESIDING OFFICER. Who yields time? The Senator from West Virginia.

Mr. ROCKEFELLER. Madam President, I ask to retain 5 minutes to close debate on this side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROCKEFELLER. I yield 2 minutes or so to the distinguished Senator from Maine.

The PRESIDING OFFICER (Mr. CARPER). The Senator from Maine.

Ms. COLLINS. I thank the Senator from West Virginia. It has been a pleasure to work with him and the Senator from Nebraska, as well as the Senator from Oregon, on this important amendment.

The Senator from Nebraska raised a very good point. This amendment has implications for all of our health care providers and that is why it enjoys such strong support of our nursing homes, of our hospitals—our rural hospitals are struggling with inadequate reimbursements—from disability advocates and the Visiting Nurse Associations.

But let's talk about what this means. We have talked about it being necessary to protect the most vulnerable

in our society. Let's talk about what it means for some individual States.

I mentioned yesterday that this amendment would provide $54 million in much needed relief to my home State of Maine. That would help avoid the necessity for draconian cuts in essential social service programs such as our Medicaid Program. But let's look at a few other States.

For Alabama, for example, this would mean $92.6 million; for Alaska, it would be $32.2 million; for Arizona, $144 million; for Arkansas, $80 million.

Let me skip down a bit. For Florida, $359 million; for Georgia, $208 million; for Hawaii, $28 million; for Idaho, $28.6 million. Indeed, the Governor of Idaho, our former colleague, Governor Kempthorne, has worked very hard as an advocate for this important legislation.

In other words, every single State in the Nation would be by this amendment provided with much needed relief. That is why we need to act. Otherwise, States are going to have no choice but to slash essential programs.

We have new figures coming out today that show the fiscal crisis affecting our partners, the States, has widened still further. According to the National Conference of State Legislators, States have used up two-thirds of their cash on hand. The gap between revenues and spending has hit $36 billion and is expected to be $58 billion, affecting 46 States. We must act. I urge my colleagues to reject the point of order.

The PRESIDING OFFICER. The Senator has used 2 minutes.

The Senator from West Virginia.

Mr. DASCHLE. Would my colleague from West Virginia withhold for a moment? If the Senator from West Virginia will yield, I appreciate my colleague's courtesy.

Mr. ROCKEFELLER. Mr. President, I yield.

TERRORISM RISK PROTECTION ACT

Mr. DASCHLE. Mr. President, as all of our colleagues know, over the last many weeks we have been attempting to work out an arrangement whereby we can go to conference on terrorism insurance. I am very pleased to be able to report this morning that we are now in a position to be able to do so. I have been in consultation with the Republican leader, and I am prepared now to present a unanimous consent request in that regard.

I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 252, H.R. 3210, the House-passed terrorism insurance bill, that all after the enacting clause be stricken, the text of S. 2600 as passed by the Senate be inserted in lieu thereof, the bill as thus amended be read the third time, passed, the motion to reconsider be laid upon the table; that the Senate insist upon its amendment, request a conference with the House upon the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate with the ratio of 4 to 3, all without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3210), as amended, was read the third time and passed.

The PRESIDING OFFICER appointed Mr. SARBANES, Mr. DODD, Mr. REED, Mr. SCHUMER, Mr. GRAMM, Mr. SHELBY, and Mr. ENZI conferees on the part of the Senate.

GREATER ACCESS TO AFFORDABLE PHARMACEUTICALS ACT OF 2001—Continued

The PRESIDING OFFICER. Who yields time? The Senator from Oklahoma.

Mr. NICKLES. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. Almost 17 minutes on the Republican side and 7 minutes on the Democrat's side.

Mr. NICKLES. Will the Senator yield me 8 minutes?

Mr. GRAMM. I would yield him 10 minutes. He deserves to be heard.

Mr. NICKLES. Mr. President, I rise in support of the budget point of order that was raised by my colleague from Texas. I am a little disappointed that the chairman of the Budget Committee didn't raise it. It is the responsibility of the Budget Committee. I have had the pleasure of serving with my colleague from Texas on the Budget Committee. That is the reason why we have a Budget Committee and the reason why we tried to pass a budget. We didn't pass a budget this year for the first time since 1974. Shame on this Congress. Shame on this Senate. Shame on, frankly, the leadership in this Senate for not getting it done.

It is maybe the most fiscally irresponsible thing we have not done and, as a result, there is no limit to how much money we can spend.

A budget point of order still lies on an amendment such as this, or any amendment, until the end of September, so we are raising a budget point of order for good reason. My colleague from Texas and the sponsors of the amendment, say this is a $9 billion amendment. This will increase Federal spending. You can come up with a list to show that every State is going to benefit. I know my State is going to benefit $93 million. I am sure my Governor would send me a letter saying please vote for this; we need help. And they do.

I agree with my colleague and very good friend from Maine. A lot of States are in very difficult times.

If you have an amendment on the floor that says here is $9 billion, and cut it up, every State is going to benefit. You could have every State Governor saying pass this amendment. What is wrong with it? Yes, states are having a difficult time. The Federal Government is having a difficult time, too. The Senator from Texas pointed out that the Federal deficit is much larger than the States' deficits. The Federal deficit, if you include Social Security, is $322 billion. Things may have deteriorated for State revenues, but they have deteriorated significantly for Federal revenues.

It is not just borrowing against Social Security. It is borrowing against the American people. The American people are going to have to borrow this $9 billion. They will have to pay interest on it. My biggest concern is that it is not a $9 billion amendment. I know the amendment is temporary. I know it is retroactive.

It is kind of interesting how we are going to spend retroactive money. This goes back and says we are going to increase spending going back to April of this year. And then presumably, we are going to do it through this September, and then next year.

It is an amendment that is for about 1 ½ years. My concern is it won't be a year and a half. If you increase these formulas, States are going to still be in difficult times next year. They are going to say: Let's make this permanent. These formulas, in many respects, are good. We don't want them to ever go down. We never want the States to get less.

If it is temporary, and here is a 1.35 percent increase in Federal match, what makes anybody think this won't be extended? This amendment is a $100 billion amendment. If it is extended, I can tell you if we pass this—and it may well be that my good friend from West Virginia has the votes. The administration is very opposed to it, illustrated in a letter from them that I have here. But if it becomes law, I have no doubt whatsoever that a year from now colleagues will say: Let's make this permanent. States are still in trouble. Governors will say: Let's make this permanent. Let's just increase the Federal share. It is free. It came from the Federal Government.

I just happen to disagree with that. If this is made permanent, we are talking about spending $100 billion—$9 billion basically for the first year—$100 billion. We are just going to do that? Next year we may not be able to make a budget point of order if we don't figure out some way to get fiscal discipline. We are just going to pass $100 billion, and have colleagues stand up and say: I can't believe these deficits are so high.

This amendment increases the Federal share. It increases FMAP. Times are tough, and we are going to increase the Federal share on Medicare.

Wait a minute. Times were good in the last several years when we had the largest surplus in the country. Did we see an increase in the Federal share when States were doing very well?

We have never said this should be based on the economy or on States' ability to pay. The formula for the FMAP is based on the States' income relative to the Federal income. The States' income was much higher than the norm with Federal income. They

paid a greater percentage, or they weren't subsidized to get as much. Another way to say this is that the poorer States were being subsidized more.

This just kind of inverts and says the States that had the significant growth last year are going to get the biggest benefit out of this proposal.

It doesn't do anything to fix some of the biggest fraud that is being perpetrated in this system right now—the upper payment limit. I wish my colleagues new something about it. Maybe some do. Maybe former Governors do. But there is a fraud, an accounting scheme and scam that is going on today called upper payment limit. It is being done by about 30 States that are ripping off the Medicaid Program and the Federal Government that is having difficulty. They devised a clever little gimmick to have the Federal Government—not pay 50 percent, not pay 60 percent, not pay 70 percent—pay 100 percent of Medicaid costs.

Are we fixing that? No. If we are going to deal with Medicaid, I tell my colleague from West Virginia and others that we are going to deal with the upper payment limit.

It is sickening to me to think we are telling people we are going to hold private America to a strict accountability standard; we are going to have you sign truth-in-accounting statements, fiscal statements and financial statements; and, we have Governors who are ripping off the taxpayers of this country with an upper payment scheme and scam to where they get the Federal Government to pay 100 percent of their Medicaid costs.

It is happening in State, after State, after State, after State.

Have we fixed that? No. Should we fix it? Yes. Let us deal with that.

If we are going to get into Medicaid reimbursements, let us wrestle with that. Have we had a markup in the Finance Committee? No. Have we requested it? Yes. Did we mark up this FMAP proposal? No.

Some said: We will deal with the upper payment limits. This didn't go through the Finance Committee. Maybe it is just a continual stream. Maybe the Finance Committee, which used to be an important committee, doesn't matter whatsoever. Maybe we don't need hearings anymore. Maybe we don't need markups in committee. Maybe we will do everything on the floor of the Senate.

I disagree with that. I disagree with the abuse that is being put on some States by the upper payment limit; and, then to come up with this amendment and say let us increase the Federal share on Medicaid—a Federal-State program—and have the Federal Government take more and more of the program. It used to be a Federal-State combination. Now there is this idea to let us make the Federal Government pay more.

If you are going to do a 1.35 percent increase, why not make it all Federal? Make it 70 percent in every State, or make it 80 percent. There has to be some kind of limit. The Federal Government happens to have deficit problems, too.

Just to increase this entitlement and really kind of turn the formula upside down—this goes all the way back to the creation of Medicaid, a successful program to help low-income States; a program designed to benefit the poorer States, to assist them. Medicaid is a good program, but this amendment says, well, we want the Federal Government to make up more, and when some States are abusing it, we don't stop that abuse. We are just going to have the Federal Government pick up more. We can hand out cards. Your State is going to get so many billion dollars. We'll just borrow some Federal money.

The Senator from Texas said it is Social Security money. It is Social Security, plus we are going into debt $165 billion.

We will borrow every penny that we are talking about. We will pay interest on that debt and write a check for that interest. It is not just an accounting gimmick. It is not just crediting some fictitious trust fund. We will write a check for every dime that is spent in this program.

I question the wisdom of doing that. The administration is opposed.

I will ask unanimous consent to have printed in the RECORD a letter from the Secretary of Health and Human Services, Tommy Thompson, dated July 18 that says:

The Administration is opposed to this amendment. A temporary change in the FMAP rate would be an unprecedented disruption of the longstanding shared fiscal responsibility for the Medicaid program. FMAP rates are not designed to change according to short-term economic developments. Such cyclical movements are contrary to the intent of the Medicaid statute, and in the long term, would serve the interest of neither the States nor the Federal Government.

I believe that is exactly right.

I ask unanimous consent that this letter be printed in the RECORD÷.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF HEALTH AND HUMAN SERVICES,
Washington, DC, July 18, 2002.

Hon. TRENT LOTT,
Minority Leader, U.S. Senate,
Washington, DC.

DEAR MINORITY LEADER LOTT: We understand that Senators Jay Rockefeller, Susan Collins, Ben Nelson, and Gordon Smith will offer an amendment to S. 812, the ''Greater Access to Affordable Pharmaceuticals Act.'' The amendment would provide temporary increases in the Federal Medical Assistance Percentage (FMAP) under the Medicaid program under Title XIX of the Social Security Act. It would also provide grants to States through Title XX to be used for a variety of social services programs.

The Administration is opposed to this amendment. A temporary change in the FMAP rate would be an unprecedented disruption of the longstanding shared fiscal responsibility for the Medicaid program. FMAP rates are not designed to change according to short-term economic developments. Although FMAPs are based on State per capita income levels and other economic indicators, they have not typically risen and fallen with short-term economic trends. If State logic suggests raising FMAPs now, then it would also imply lowering them in times of economic boom. If we had followed such a course, after nine years of economic recovery, current FMAP rates would be much lower than they are today. Such cyclical movements are contrary to the intent of the Medicaid statute, and in the long term, would serve the interest of neither the State nor the Federal government.

An FMAP increase is unlikely to increase health insurance coverage. Instead of using increased funds to provide more health services, States would likely use the increase in Federal dollars to lower their spending on health care. Increasing the FMAP would not lead to more coverage; it simply shifts additional health care costs onto the Federal government.

The President has introduced a nunber of initiatives to help alleviate State fiscal pressures and to increase access to health care coverage for millions of uninsured Americans, including:

$89 billion over 10 years for health credits for the uninsured;

A Medicaid drug rebate proposal that would save States billions of dollars over the next ten years;

A proposal to provide Federal funding for prescription drug coverage to low-income seniors prior to implementation of comprehensive improvements in Medicare. Such a proposal has already passed the House and would provide quick fiscal relief to States, which have had to take responsibility for prescription drug coverage in the absence of Senate action;

Medicaid coverage for families transitioning from welfare to work through FY 2003;

A proposal to make available State Children's Health Insurance Program (SCHIP) funds that under current law would return to the Treasury at the end of FY 2002 and 2003; and

The Health Insurance Flexibility and Accountability Demonstration Initiative that gives States more flexibility using Medicaid and SCHIP funds to expand health insurance coverage to low-income Americans.

All of these proposals would provide both temporary and long-term fiscal relief for States, which is the right policy response given that State' health care obligations are expected to continue to increase rapidly. In addition, these proposals would help provide more secure and affordable health care assistance for low-income Americans right away. These are far more effective approaches than an increase in the FMAP.

The Administration also opposes the temporary increase in funding for the Social Service Block Grant under Title XX of the Social Security Act. We believe that States already have sufficient access to other Federal block grant funds to supplement the Social Services Block Grant and other social services-related programs.

We understand that some States continue to have financial difficulties and that Medicaid constitutes a large share of State spending. However, we do not feel that this temporary increase in FMAP is an effective or proper way to address these final difficulties. We will continue to work with the Senate to implement effective approaches of providing relief to states while improving health care coverage and affordability.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the President's program.

Sincerely,

TOMMY G. THOMPSON.

Mr. NICKLES. Mr. President, I reserve the remainder of our time.

The PRESIDING OFFICER. Who yields time?

Seven minutes remain on both sides. Who yields time?

Mr. NELSON of Nebraska. Mr. President, I ask my colleague from West Virginia if I might have 2 minutes.

The PRESIDING OFFICER. Who yields time?

Mr. ROCKEFELLER. I yield to the Senator from Nebraska 2 minutes.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. NELSON of Nebraska. Thank you, Mr. President. I thank Senator ROCKEFELLER.

Back in the early nineties when I tried to balance our budget as Governor and had a difficult time doing it, the Federal Government reduced its share and increased ours.

Today, the Federal Government is not having the same difficulty the State of Nebraska is having in terms of revenue. For only the second time in history, Nebraska's revenues are less this year than they were last year.

If we are trying to talk about who is going to do what during difficult times and how this partnership is going to work, I think it is a little inconsistent to say the Federal Government doesn't reduce its share. It does. If it reduces it, it can increase it; and it does in the ordinary course of events.

What we are saying is, this is an unusual set of events—not a temporary downturn, although we think it is but it is an unusual set of events where the Federal Government continues to have growing income and the States are having a reduction in their income.

It is a recognition that this partnership, which was created by the Federal Government with the States, is one that needs to work as a partnership where the two partners can work together to make this program work. That is what it is.

Certainly, I am not suggesting the Federal Government take over the entire partnership, take it over as a stand-alone program at the Federal Government level. But I think it is interesting to say that somehow the Federal Government's share should not increase when, in fact, from time to time it has increased, as well as from time to time it has decreased.

I think it is important to recognize that the program is about people. It is not about giving money to the States, it is about recognizing the importance of the program to the people—the faces of people who are elderly, working parents, usually single parents who are struggling to get out of the welfare system, who currently have transitional benefits in Medicaid, who could in fact lose those benefits and lose their capacity to be able to work.

It seems to me we have to be able to look beyond what is being suggested here.

I thank the Chair.

The PRESIDING OFFICER. There are 5 minutes remaining for the Senator from West Virginia.

Mr. ROCKEFELLER. How much time is left?

The PRESIDING OFFICER. The Senator has 5 minutes, and there are 7 minutes for the other side.

Mr. ROCKEFELLER. I failed to hear the Chair.

The PRESIDING OFFICER. There are 5 minutes remaining for the Senator from West Virginia and 7 minutes remaining for the Senator from Texas. And the Chair understands that the final 5 minutes to close belong to the Senator from West Virginia.

Mr. ROCKEFELLER. I say to the Presiding Officer, I am not going to use all my time at the present time. I will just make a couple very quick points.

The Senator from Oklahoma—it is very important my colleagues and their staffs, who may be listening to this debate, understand this—used two arguments, and only two arguments.

One, he said, we may extend this. In other words, that is a classic argument. If you do not want to do something, you say, we may extend this. That is why, just like when the tax cut was written into law, it will not be extended. We have written into law that will not be extended.

The Senator from Oklahoma is saying we do not want it extended because he does not want this to happen. And I understand that. It is a good debating technique. But it isn't going to be extended. It is temporary. It is a year and a half for a very specific reason.

Mr. NICKLES. Will the Senator yield for a question?

Mr. ROCKEFELLER. I will when I am finished.

Mr. NICKLES. It is a very friendly question.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. ROCKEFELLER. The other is the upper payment limit, which in fact is understood by some of us. And I do not know whether the Senator is aware that the Bush administration, which writes a letter against this—which maybe is not surprising, I don't know, but it is disappointing—has already promulgated a new regulation, which took effect in April, which solves most of the problem about which the Senator is talking. The problem he is taking about is real, but it has no place in this debate. First, the administration has moved to solve it. Secondly, it has no part in this debate.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator has 3 minutes 14 seconds remaining.

Mr. NICKLES. Will the Senator yield for a very brief question?

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES. On my time.

Is the Senator saying that should his amendment become law, there will not be a request to extend this next year?

Mr. ROCKEFELLER. No, I think there probably will not be, No. 1. And, No. 2, I would probably oppose that because this is an emergency measure. That is what the Senator understood right after September 11. That is why it was in the emergency package. It is an emergency measure, not a permanent measure. It is a way of helping people.

It is interesting, the Senator from Texas talked about the budget deficit. He never talked about people. This is about 40 million people who are suffering.

Mr. NICKLES. Do I have the commitment of my colleague to oppose an extension of this next year?

Mr. ROCKEFELLER. I have no instinct to extend this program because the States——

Mr. NICKLES. I thank my friend.

Mr. ROCKEFELLER. All right.

The PRESIDING OFFICER. Who yields time?

Mr. ROCKEFELLER. I am going to yield time—3 minutes—to the Senator from Massachusetts, if he can arrive at his distinguished point of oratory.

Mr. REID. Will the Senator from West Virginia yield?

Mr. ROCKEFELLER. Of course.

Mr. REID. It is my understanding the Senator from West Virginia needs a little more time.

Mr. ROCKEFELLER. That is correct.

Mr. REID. I ask the Senator, approximately how much time do you need on your side?

Mr. ROCKEFELLER. Four minutes.

Mr. REID. So 5 minutes on each side. Is that OK with the Senator from Oklahoma, an additional 5 minutes on each side?

I ask unanimous consent, Mr. President, that the Senator from West Virginia be given 5 additional minutes and the Senator from Texas 5 additional minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, first, I thank our friend from West Virginia for his excellent presentation and strong support.

I welcome the opportunity to be a cosponsor of this legislation. I know there has been a good deal of debate and discussion about the technicalities of this amendment, but what we are really talking about are real people being hurt in the most egregious way if we fail to respond.

We know that our States are facing economic challenges, and those economic exigencies have required cutbacks in some of the very important programs that reach out to the neediest people in these States.

We are talking about real people who are being hurt. Pregnant women in

Florida will lose their current Medicaid coverage if their income just happens to fall between 150 and 185 percent of poverty.

A North Carolina family of four, with a child suffering from juvenile diabetes, could see their drug coverage shrink, potentially limiting their access to vital medicines.

Some 45,000 children could be cut from the Medicaid rolls in New Mexico because of the proposed cuts to deal with the $47 million shortfall.

Some 50,000 children, pregnant women, disabled, and elderly could lose their Medicaid coverage in Oklahoma because of the $21 million shortfall.

It may be expressed in dollars, but it is really being expressed in real people's lives: real suffering, real sacrifice, and real pain.

We have a chance to do something about that. This can be an expression of our values as a society and our concern about our fellow human beings. These are the neediest of the needy in our society, and this amendment will help them.

I commend the Senator for bringing this matter to the attention of the Senate. I am very hopeful it will be accepted and that the point of order will be waived.

The PRESIDING OFFICER. Who yields time?

The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I yield 2 minutes to the distinguished Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine is recognized for 2 minutes.

Ms. COLLINS. I thank the Senator from West Virginia.

Mr. President, I just want to make a couple points.

First of all, an increase in the Federal match under Medicaid was part of the Centrist Coalition's economic recovery package we considered. It was part of virtually every version. It had widespread support. It was supported by the administration. It did not make it into the final package. But this is not a new idea. This is an idea with widespread bipartisan support.

The second point I want to make is in response to an argument made by my friend and colleague from Oklahoma. My friend from Oklahoma said Medicaid spending does not get cut in economically good times. In fact, it is countercyclical. In good times, far fewer people qualify for Medicaid. In fact, Federal and State spending on Medicaid declined dramatically during the 1990s, when the economic times were good.

So there is a countercyclical aspect of Medicaid. It does go down when times are good and the program is less needed.

Now times are not good. There are more people in need of assistance from the Medicaid Program. We know 40 million Americans rely on this program.

What we are trying to do is preserve this essential, vital health care program that provides services and care to the most vulnerable and needy in our society. That is the motivation behind our proposal. It is not to bail out the States, it is to help the States, our partners, provide essential services.

The PRESIDING OFFICER. Who yields time?

The Senator from Texas.

Mr. GRAMM. Mr. President, we are coming to the end of this debate. I would like to make note of how deficits occur.

If anybody wants to understand why the Federal Government, which is the summation of all of the taxpayers in the country, owes trillions of dollars, this is a classic example of how that comes about. We are talking about spending $9 billion. There are 140 million taxpayers. That is $64 per taxpayer.

The problem is, taxpayers are at work. It is 11:30 on a Thursday. They don't know this debate is occurring. But all the special interest groups that want this $9 million, members of the State legislatures who ran for office to make decisions in the States, all the people who want this money are looking over their Senator's right shoulder trying to tell them that they ought to care about people on Medicaid or about the State legislature or about the State's deficit.

That would be insignificant if the 140 million taxpayers were looking over the left shoulder. The problem is, it is 11:31 on a Thursday morning and all those 140 million taxpayers are at work. They don't even know this debate is occurring. So as a result, what tends to happen over and over and over again is that spending interests dominate.

Our colleagues tell us: States have difficulty. I remind my colleagues, the Federal Government has difficulty. A year ago we had a $283 billion surplus. We were spending madly. Today we have a $165 billion deficit, and we are still spending like drunken sailors, as Ronald Reagan would say. Only drunken sailors are spending their own money, and in all fairness, we are spending somebody else's money.

We hear that the States in total could run as much as a $40 billion deficit this year. I certainly am unhappy about it. My State faces tough decisions. But we are running a $165 billion deficit. We are running a deficit over four times as big as all the States combined.

Our colleagues say: This fits an emergency. This is unforeseen, unpredicted, unanticipated. Well, it is created by a formula that has only existed for 37 years. So for 37 years we have known what the formula was. What is unanticipated, what is unpredicted about this?

Finally, as if the argument to waive this budget point of order and bar this $9 billion and take it away from Social Security could be any weaker, the argument basically comes down to: There are some States that in the last few years have been doing better than other States, better than the country as a whole, and unless we give them more money now, they may be adversely affected by the formula.

The way the formula works is, the higher the State's income relative to national income, the more of the Medicare share they pay. Should it be the other way around? Should poorer States pay a higher share?

There is not one substantive argument in favor of borrowing this $9 billion. If the American people knew this debate was occurring at 11:35 this morning, if all 120 million taxpayers were following this debate, this amendment would never have been offered and probably would not have gotten 20 votes.

The problem is, those 120 million taxpayers are at work, and all the people who want this money are looking over their Senator's right shoulder, sending letters back home, telling people whether he cares about State finances or she cares about Medicaid beneficiaries.

That is the dilemma we are in. I urge my colleagues to look at the fact that in 12 short months, we have gone from $283 billion in the black to $165 billion in the red. When does it stop? We are broke, and we don't act like it. When do we stop spending this money that we do not have?

I urge my colleagues to sustain this budget point of order. I urge everybody who has ever lamented the spending of the Social Security surplus to put their vote where their mouth is. I urge everyone who has ever lamented the deficit, who has ever gone back to their State and said, I am for fiscal responsibility, to put your vote where your mouth is. I want to urge everybody who has ever said, we can't let working people keep more of what they earn because we have a deficit, we need the money, we can't afford it; I urge them to vote against this spending.

I don't know how you can have any possibility of being consistent in taking the position that we ought to borrow this money. This is totally unjustified. I know some people want it. If you spend $9 billion, you are going to benefit somebody even if by mistake. I am not in any way denigrating that this $9 billion will help people. I am not saying it won't. But the point is, we have a budget process. We have seen the surplus go from $283 billion in the black to $165 billion in the red. Let us stop that process here.

I urge my colleagues to vote to sustain the budget point of order.

The PRESIDING OFFICER. Who yields time?

The Senator from West Virginia.

Mr. ROCKEFELLER. I yield 30 seconds or such time as he might need to the distinguished Senator from Nevada.

APPOINTMENT OF CONFEREES

Mr. REID. Mr. President, I am sorry I was not here when the unanimous

consent agreement was entered assigning conferees to the antiterrorism legislation. It is very important legislation. It is going to help all over the country.

I compliment and applaud Senator LOTT and others who allowed us to go forward. It is an important day. Construction will be able to go forward as soon as we complete this conference in Nevada, Delaware, all over the country. It is important legislation. I compliment and applaud the Republican leader.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, let me make a couple comments.

No. 1, my friend from Texas speaks with enormous passion about the overriding power of the budget, and at the very last moment of his last statement, for the first time he used the word ''people.'' I sat in the same Finance Committee with him for a long time when we were debating tax cuts—and I am not here to argue whether it was a good or bad thing, but there was no question that we went from a $5.6 trillion surplus to a $165 billion annual deficit probably for the next 10 years, if nothing gets worse—and I never heard him make the argument—for some reason, maybe I missed it, maybe I wasn't there at the moment—that we shouldn't do that tax cut which was the largest tax cut that this particular Senator from West Virginia, who does not need it, has ever received from the Federal Government—I never heard him talk about the possibility of budget deficits.

So it does become a matter of priorities. It is fair, as the Senators from Nebraska, Massachusetts, and Maine have mentioned, to talk about 40 million people. And to say we are doing this to bail out the States, good grief, it is quite the opposite. The States are not powerful in the same sense that the Federal Government is. The States cannot go into deficit financing—with the exception of Vermont—as can the Federal Government. They have to balance their budgets.

I was a Governor; I know that. The Senator from Nebraska was a Governor; he knows that. The States are not being bailed out. If the States cut their Medicaid eligibility, they cannot receive any of this money, unless they restore their portion through legislative action to the proper eligibility rate and, only then, on a temporary basis, for 1 and a half years, written into law, do they get this money.

I want to close on the concept of people. Sometimes it appears to me on this floor that helping people is sort of a bad thing to do because if you help people, it implies that it might cost some money. It almost always does. It also costs an awful lot more money if you don't, on some occasions. This is one of those occasions. If we do not support the motion to waive, then health infrastructure all across this country is going to be hurt because of its dependency upon Medicaid. Forty million people are going to be hurt, including disabled people, children, seniors, and others, because of this motion.

I need to tell you that this is not a bailout. This is temporary. This was in the original emergency stimulus package. Nobody argued then. Now, all of a sudden, they argue. It is very important for the States to be healthy and for the States to be able to balance their budgets, and therefore I strongly urge colleagues to support the motion to waive the point of order.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. GRAMM. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 3 minutes 51 seconds remaining.

Mr. GRAMM. Mr. President, anybody who has not heard me talk about the deficit has not been listening in the last days, weeks, and years.

Secondly, I ask unanimous consent to have printed in the RECORD the accounting of the Office of Management and Budget on where this deficit has come from. We have gone from $283 billion in the black to $165 billion in the red, and only 9 percent of that change had anything to do with the tax cut.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHANGE IN SURPLUS

	FY2002		FY2003		FY2002–FY2011	
	Billions	Percent	Billions	Percent	Billions	Percent
Total surplus (OMB February 2001)	$283	.....	$334	.....	$5,637	.....
Economic and technical changes	278	64	194	49	1,669	43
Bush tax cut	41	9	94	24	1,491	38
Appropriations	45	10	40	10	409	10
Farm bill	2	0	13	3	81	2
Stimulus	59	14	39	10	42	1
Other	9	2	15	4	228	6
Total change in surplus	434	100	395	100	3,920	100
Total deficit/surplus (OMB July 2002)	150	.....	(62)	.....	1,718	.....

Source: CBO; provided by Senator Don Nickles, 7/16/02.

Mr. GRAMM. Mr. President, I will conclude by saying that we have come down to a decision about whether or not we are going to borrow $9 billion, which we don't have. Given the state of the American economy and budget, given that our deficit is four times as big as the cumulative deficit of the States, I urge my colleagues not to bust the budget, not to waive this budget point of order, but instead to be fiscally responsible.

I yield back the remainder of my time.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to the motion. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The PRESIDING OFFICER (Mrs. CLINTON). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 75, nays 24, as follows:

(Rollcall Vote No. 190 Leg.)

YEAS—75

Akaka	Domenici	Lugar
Allard	Dorgan	McCain
Allen	Durbin	McConnell
Baucus	Edwards	Mikulski
Bayh	Enzi	Miller
Bennett	Feinstein	Murkowski
Biden	Fitzgerald	Murray
Bingaman	Graham	Nelson (FL)
Boxer	Hagel	Nelson (NE)
Breaux	Harkin	Reed
Bunning	Hatch	Reid
Burns	Hollings	Rockefeller
Byrd	Hutchinson	Sarbanes
Campbell	Hutchison	Schumer
Cantwell	Inouye	Sessions
Chafee	Jeffords	Shelby
Cleland	Johnson	Smith (OR)
Clinton	Kennedy	Snowe
Cochran	Kerry	Specter
Collins	Kohl	Stabenow
Conrad	Landrieu	Stevens
Corzine	Leahy	Torricelli
Daschle	Levin	Warner
Dayton	Lieberman	Wellstone
Dodd	Lincoln	Wyden

NAYS—24

Bond	Feingold	Nickles
Brownback	Frist	Roberts
Carnahan	Gramm	Santorum
Carper	Grassley	Smith (NH)
Craig	Gregg	Thomas
Crapo	Inhofe	Thompson
DeWine	Kyl	Thurmond
Ensign	Lott	Voinovich

NOT VOTING—1

Helms

The PRESIDING OFFICER. On this vote the yeas are 75, the nays are 24. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. REID. I move to reconsider the vote.

Mr. ROCKEFELLER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. DASCHLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE BRANCH APPROPRIATIONS ACT, 2003

Mr. DASCHLE. Madam President, under the authority granted to me and after consulting with the Republican leader, I now call up Calendar No. 504, H.R. 5121, the legislative branch appropriations bill.

The PRESIDING OFFICER. The leader has that right. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5121) making appropriations for the Legislative Branch for the fiscal year ending September 30th, 2003, and for other purposes.

The PRESIDING OFFICER. Under the previous order, the text of S. 2720, the Senate committee-reported bill, is inserted in the appropriate place in the measure.

Who yields time?

The Senator from Illinois.

AMENDMENT NO. 4319

Mr. DURBIN. Madam President, I ask unanimous consent to make a technical correction to the bill relating to a House matter. This amendment simply strikes a requirement that the GAO report to the House Administration Committee regarding its work on the Architect of the Capitol. We have been informed the committee does not have oversight for the Architect and therefore have been requested to delete this reference. I have consulted with my colleague and the ranking member, Senator BENNETT, and I ask unanimous consent this technical correction be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN], for himself and Mr. BENNETT, proposes an amendment numbered 4319.

Mr. DURBIN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment was (No. 4319) was agreed to, as follows:

On page 33, lines 19 and 20, strike '', the Committee on House Administration of the House of Representatives,''.

On page 34, line 24, through page 35, line 1, strike '', the Committee on House Administration of the House of Representatives,''.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Madam President, I thank my colleague and chairman of the committee, the Senator from West Virginia, for his help in bringing this matter to the floor.

Mr. President, I am honored to present to the Senate the fiscal year 2003 legislative branch appropriations bill as reported by the Appropriations Committee. I thank the chairman and ranking member of the full committee, Senate BYRD and Senator STEVENS, and of course my ranking member Senator BENNETT who has been a real partner in crafting this legislation.

The bill is within its budget authority and outlay allocation, with total funding of $2.417 billion. This excludes House amounts which is the normal protocol.

This is only $8 million—0.35 percent—over the request level and $164 million or 7 percent over the fiscal year 2002 enacted level. Virtually all significant increases are focused on enhancing security for the Capitol complex.

Highlights of the bill include—$675 million for the Senate, $31 million over the enacted level and $11 million below the request. Significant increases are provided for the Sergeant-at-Arms, directed at increasing the security of the Capitol complex, including new mail handling protocols and a new Office of Emergency Preparedness.

For the Architect of the Capitol, funding would total approximately $396 million compared to the request level of $363 million. The largest project in the Architect's budget that we are recommending is the expansion of the Capitol power plant's west refrigeration plant, which is critically needed due to aging equipment and increased capacity requirements, at a cost of $82 million. In addition, a number of critical security-related projects have been included such as an alternate computing facility for the legislative branch.

The bill includes language aimed at helping the Architect of the Capitol improve his operations by creating a new deputy Architect of the Capitol who will also serve as the chief operating officer.

We have worked closely with the General Accounting Office in these efforts to upgrade AOC operations, including a greater focus on worker safety, and I might add significant progress has been made in the last year due to the efforts of this committee and the cooperation of the Architect's office, project management, accountability for performance, and coordination of roles and responsibilities.

The Architect of the Capitol operation has been making some improvements over the past year and the employees worked very hard to do their part in addressing the anthrax cleanup, an historic challenge to all who worked on Capitol Hill. But there is much more to be done in making AOC a best-practices organization.

They have been given tremendous additional responsibilities for executing a myriad of security projects, particularly the Capitol Visitor Center—which we want to ensure remains on schedule and on budget as it is today. Any visitor to Capitol Hill in the last 6 months or a year has noted the extensive construction underway. The authorities included in this bill should provide new tools with the goal of making the AOC a model for facilities management and construction management.

Funding for the Capitol Police totals roughly $210 million which reflects their latest payroll and expense estimates. Funding has been provided to accommodate at 9.1 percent pay raise—which includes comparability pay—to help the Capitol Police recruit and retain new officers as they attempt to increase significantly the force size over the next few years to about 2,000 officers. Also included is authority for increasing pay for specialty assignments and providing authority and funding for full premium pay earned during the September 11th and October 15th incidents.

I can say that the hundreds of thousands of visitors to Capitol Hill understand the important responsibility of the Capitol Police which was enhanced and challenged by September 11. We want to make certain that we have the very best men and women to protect this great national asset, all the people who work here, and our visitors whom we treasure very much.

This bill will require that within 3 years the Library of Congress, just across the street, and Capitol Police officers be merged in order to improve security. This has been an initiative urged and encouraged by my colleague, Senator BENNETT. The 3-year implementation period will allow time to work out the details, differences in retirement, training and equipment.

The Government Printing Office, $122 million is included with the directive to the administration not to implement the recently announced policy directing agencies to violate our law and bypass the Government Printing Office for their printing needs. If such a directive were implemented, not only would the law be broken, but the process by which 1,300 Federal depository libraries receive Government publications would be decimated.

For the Library of Congress, including the Congressional Research Service, funding would total $497 million, an increase of $15 million over the enacted level, but $15 million below the request, reflecting a more realistic projection of the cost of new positions. New positions are provided for preserving the access of the Library's collections, including digital initiatives.

The General Accounting Office will receive $455 million. This covers all mandatory and price level increases, and includes $1 million to continue their important technology assessment work which was initiated by Congress last year.

The recommendation includes $13 million for the Center for Foreign Leadership Development. We have expanded what was originally the center for Russian Leadership Development to include newly independent states of the former Soviet Union including the Baltics. This program has proven successful in bringing emerging political leaders in Russia to the United States to learn democracy firsthand and to make certain they take those lessons home. Expanding this program to include these additional countries will continue to promote that critical goal.

Before I turn it over to my colleague and friend Senator BENNETT, I want to particularly thank all the staff on the Appropriations Committee for their work, and especially Carrie Apostolou, who has done a tremendous amount of work to make this bill ready for floor consideration, and Pat Souders of my own staff, who has worked closely with her.

I thank Senator BENNETT for his cooperation, and I yield the floor to my colleague.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Madam President, I am grateful for the generous remarks

of my friend and chairman, the Senator from Illinois. I am grateful for the cooperative way in which we have been able to work through this bill.

The Senator from Illinois had the challenge of taking over this subcommittee in the middle of the session, and he had just come to the subcommittee by virtue of his assignment to the Appropriations Committee. He has demonstrated that he is a very quick study. He has moved quickly to get on top of these issues.

I do not want to repeat the various elements of the bill he has described, but it is a good bill and it is one that I am happy to join in recommending to the Senate.

As the Senator from Illinois has indicated, I have been advocating for some time a merger of the Capitol Police, at least with the Library of Congress Police, and looking at the other police agencies that are under our jurisdiction. We are now moving ahead with this. I think it only makes sense, in the new security environment in which we find ourselves. To have an area as small as the Capitol campus be divided up into jurisdictions under, not necessarily competing but certainly different police departments, does not make a whole lot of sense.

I have made reference to this before, but I think it is appropriate here. One of the things that was particularly significant for the success of the Olympics in Utah was the coordination that occurred between competing law enforcement agencies. Of course, we were involved in a much bigger venue there, a much larger geographic area, but it was important that everybody got together and was able to communicate.

Given the small nature but highly visible nature of the Capitol campus, it makes sense to have the police come together. I am grateful to my friend from Illinois for his support and leadership on this particular issue.

We all know about the Visitor Center. We can't come into the Capitol without having it in our face every day. But the demands of the Architect of the Capitol to bring that project through are significant. So I think the decision of the committee to fund a Deputy Architect of the Capitol, creating a full-time manager for the day-to-day activities of the Architect of the Capitol, is the right decision.

Senator DURBIN has been particularly aggressive in trying to solve some of the management challenges the Architect of the Capitol has had over the past years. The decision to move toward a Deputy Architect, toward an operating officer to run the office of the Architect of the Capitol, is a good decision, and I think we need to highlight that in this bill.

Finally, I want to make a personal comment about a very small but maybe high-profile aspect of this bill, which is the Russian Leadership Conference that now has been expanded, as Chairman Durbin has indicated, to include other countries.

During the Fourth of July break, I was in Russia. This was the fourth time I had been there. I was very pleasantly surprised at the high degree of pro-American atmosphere we ran into. I was in Russia before when there was, frankly, an underlying current of suspicion—I wouldn't go so far as to say anti-American attitude in Russia, but suspicion of America and America's motives. We got that over the issue of the expansion of NATO, for which I voted and which I supported.

The first time I met with members of the Russian Duma, they were automatically anti-expansion of NATO. And no matter what we tried to talk about, they would always bring it back to NATO and, what are you Americans doing?

On this occasion, we met with officers of the National Council. They told us they were going to rename it the Senate because they indicated they did not get appropriate respect in their own country, when everybody thought of the parliament being the Duma and they thought of themselves as the upper house. We are very careful in this Congress that we never use that term. And they thought, if they renamed themselves the Russian Senate, they would get appropriate respect.

One of the members of that council told me this story. He said: My grandmother told me that all her life she has been taught to mistrust, indeed fear, NATO. However, she said, in the present atmosphere, if President Putin tells me that NATO is no longer a threat, I guess I am going to have to change my point of view.

He told me that story to illustrate President Putin's popularity in Russia, but I took that story to indicate a significant change in Russian attitudes toward Americans, and it has been the Russian leadership group that has been participating in this function, that we have been funding out of this subcommittee, that has helped plant the seeds of that kind of circumstance.

So even though it is a relatively small amount and has been a controversial program with Members of the House of Representatives, I can give personal testimony, if you will, that it has borne fruit, that the fruit has been significant, and I congratulate Senator DURBIN on his continued support of this program and its expansion into other countries as well.

So, Madam President, I am happy to join with Senator DURBIN in recommending this bill to the other Members of the Senate and urging its passage.

Mr. CONRAD. Mr. President, I rise to offer for the record the Budget Committee's official scoring for S. 2720, the Legislative Branch Appropriations Act for Fiscal Year 2003.

The Senate bill provides $2.417 billion in discretionary budget authority. Per tradition, that amount does not include funding for exclusive House items, which will be added in conference. The discretionary budget authority will result in new outlays in 2003 of $1.935 billion. When outlays from prior-year budget authority are taken into account, discretionary outlays for the Senate bill total l$2.547 billion in 2002.

The Appropriations Committee voted 29–0 on June 27 to adopt a set of non-binding sub-allocations for its 13 subcommittees totaling $768.1 billion in budget authority and $793.1 billion in outlays. While the committee's subcommittee allocations are consistent with both the amendment supported by 59 Senators last month and with the President's request for total discretionary budget authority for fiscal year 2003, they are not enforceable under either Senate budget rules or the Balanced Budget and Emergency Deficit Control Act. While I applaud the committee for adopting its own set of sub-allocations, I urge the Senate to take up and pass the bipartisan resolution, which would make the committee's sub-allocations enforceable under Senate rules and provide for other important budgetary disciplines.

For the Legislative Branch Subcommittee, the full committee allocated $3.413 billion in budget authority and $3.467 billion in total outlays for 2003. The bill reported by the full committee on July 11 is fully consistent with that allocation. In addition, S. 2720 does not include any emergency designations or advance appropriations.

I ask for unanimous consent that a table displaying the budget committee scoring of this bill be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2720, LEGISLATIVE BRANCH, 2003

[Spending comparisions—Senate-Reported Bill (in million of dollars)]

	General purpose	Mandatory	Total
Senate-reported bill:[1]			
Budget Authority	2,417	102	2,519
Outlays	2,547	101	2,648
Senate committee allocation:[2]			
Budget Authority	3,413	102	3,515
Outlays	3,467	101	3,568
House-reported bill:			
Budget Authority	2,674	102	2,776
Outlays	2,856	101	2,957
President's request:[3]			
Budget Authority	3,404	102	3,506
Outlays	3,451	101	3,552
SENATE—REPORTED BILL COMPARED TO:			
Senate committee allocatin:			
Budget Authority	−996	0	−996
Outlays	−920	0	−920
House-reported bill:			
Budget Authority	−257	0	−257
Outlays	−309	0	−309
President's request:			
Budget Authority	−987	0	−987
Outlays	−904	0	−904

[1] Per tradition, the Senate bill does not include funding for exclusive House items, which will be added in conference.

[2] The Senate has not adopted a 302(a) allocation for the Appropriations Committee. The committee has set non-enforceable sub-allocations to its 13 subcommittees. This table compares the committee-reported bill with the committee's allocation to the Legislative Branch Subcommittee for informational purposes only.

[3] The President requested total discretionary budget authority for 2003 of $768.1 billion, including a proposal to change how the budget records the accrued cost of future pension and health retiree benefits earned by current federal employees. Because the Congress has not acted on that proposal, for comparability, the numbers in this table exclude the effects of the President's accural proposal.

Notes: Details may not add to totals due to rounding.

Prepared by majority staff, 07–25–02.

Mr. MCCAIN. Mr. President, I thank the managers of this bill for their hard work in putting forth this legislation

which provides Federal funding for the legislative branch.

In reviewing this bill to determine whether it contains items that are low-priority, unnecessary, wasteful, or have not been appropriately reviewed in the normal, merit-based prioritization process, I applaud the Appropriations Committee for their fiscal restraint in including a minimal number of such items.

For this legislation, only two locality-specific earmarks appear to be included. The bill itself includes $200,000 for Southern Illinois University for the purpose of developing a permanent commemoration of the Lewis and Clark Expedition. And an amendment to this bill that was adopted on the Senate floor provides $500,000 for the Alexandria Museum of Art and the New Orleans Museum of Art for activities relating to the Louisiana Purchase Bicentennial Celebration.

How refreshing it would be if the Appropriations Committee would demonstrate the same fiscal responsibility they showed in preparing this legislation in every one of the remaining appropriations bills. Unfortunately, this bill is the exception to the rule, because, as evidenced by the recently passed supplemental appropriations bill, the runaway pork-barrel gravy train shows no signs of slowing down on Capitol Hill.

We must remember that while the amounts associated with each individual earmark may not seem extravagant, taken together they represent a serious diversion of taxpayers' hard-earned dollars at the expense of numerous programs that have undergone the appropriate merit-based selection process. During this time of mounting deficits, we must be more prudent about where we devote limited fiscal resources. I urge all my colleagues to curb the habit of directing hard-earned taxpayer dollars to locality-specific special interests.

The PRESIDING OFFICER. The Senator from Illinois.

AMENDMENT NO. 4320

Mr. DURBIN. Madam President, I send to the desk an amendment on behalf of myself and Senator BENNETT and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois (Mr. DURBIN), for himself and Mr. BENNETT, proposes an amendment numbered 4320.

Mr. DURBIN. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. DURBIN. This amendment relates to the Capitol Police. It will enhance their ability to recruit and retain officers as they struggle to increase their strength while losing officers to other law enforcement agencies. All these changes in the amendment have been requested by the new Chief of Capitol Police, Terry Gainer, and the Capitol Police Board.

Let me say briefly how proud we are that Terry Gainer is the new Chief of Police. Those of us from Illinois and Chicago know Terry Gainer well. He is a former member of the Chicago Police, legal counsel for the Chicago Police Department, and superintendent of the Illinois State Police. He came to Washington, DC, was second in command in this the Capital City, and was then recruited to undertake this important responsibility. I am certain he is going to do an excellent, professional job considering the new challenges facing this department.

The new authorities in the amendment authorize them to hire new officers without regard to age. There are technical corrections to existing authorities regarding recruitment and relocation bonuses and premium pay for unscheduled overtime. It also includes technical corrections to the committee bill regarding the consolidated disbursing function for the Capitol Police, salaries, appropriations. All of those are technical in nature, and I urge the adoption of the amendment.

Mr. BENNETT. Madam President, as indicated by my cosponsorship of the amendment, I endorse what Chairman DURBIN has said and urge the Senate to adopt the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Without objection, the amendment is agreed to.

The amendment (No. 4320) was agreed to.

AMENDMENT NO. 4321

Mr. DURBIN. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN], for Ms. LANDRIEU, proposes an amendment numbered 4321.

Mr. DURBIN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To set aside funds for activities relating to the Louisiana Purchase Bicentennial Celebration)

On page 44, line 24, before the period, insert the following: '': *Provided further*, That, of the total amount appropriated, $500,000 shall remain available until expended and shall be equally divided and transferred to the Alexandria Museum of Arts and the New Orleans Museum of Art for activities relating to the Louisiana Purchase Bicentennial Celebration''.

Mr. DURBIN. Madam President, the amendment would provide $500,000 within the Library of Congress appropriations for activities related to the Louisiana Purchase Bicentennial Celebration. I urge its adoption.

Mr. BENNETT. Madam President, I have no objection to this amendment.

The PRESIDING OFFICER. Is there further debate?

Without objection, the amendment is agreed to.

The amendment (No. 4321) was agreed to.

Mr. DURBIN. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENNETT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4322

Mr. DURBIN. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN], for himself, Mr. COCHRAN, and Mr. BENNETT, proposes an amendment numbered 4322.

Mr. DURBIN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: Provide funding for the Congressional Award Act)

On page 28, line 11, strike ''$108,743,000'' and insert ''$108,243,000''.

On page 63, insert between lines 10 and 11 the following:

SEC. 312. TITLE II OF THE CONGRESSIONAL AWARD ACT.

There are appropriated, out of any funds in the Treasury not otherwise appropriated, $500,000, to remain available until expended, to carry out title II of the Congressional Award Act 92 U.S.C. 811 et seq.).

Mr. DURBIN. Madam President, this amendment which we are currently considering provides $500,000 for the recently reauthorized Congressional Award Act offset by the reduction in the budget of the Architect of the Capitol. I urge its adoption.

Mr. BENNETT. Madam President, I have no objection to this amendment as illustrated by my cosponsorship.

The PRESIDING OFFICER. Is there further debate?

Without objection, the amendment is agreed to.

The amendment (No. 4322) was agreed to.

Mr. DURBIN. Madam President, I move to reconsider the vote.

Mr. BENNETT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4323

Mr. DURBIN. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN], for himself and Mr. SPECTER, proposes an amendment numbered 4323.

Mr. DURBIN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide for a pilot program for mailings to town meetings)

On page 5, line 26, insert before the period ", of which up to $500,000 shall be made available for a pilot program for mailings of postal patron postcards by Senators for the purpose of providing notice of a town meeting by a Senator in a county (or equivalent unit of local government) with a population of less than 250,000 and at which the Senator will personally attend: *Provided*, That any amount allocated to a Senator for such mailing shall not exceed 50 percent of the cost of the mailing and the remaining cost shall be paid by the Senator from other funds available to the Senator: *Provided further*, That not later than October 31, 2003, the Sergeant at Arms and Doorkeeper of the Senate shall submit a report to the Committee on Rules and Administration and Committee on Appropriations of the Senate on the results of the program".

Mr. DURBIN. Madam President, this amendment, on behalf of Senator SPECTER, provides up to $500,000 in the miscellaneous items account of the Senate for a pilot program and additional funds for town meeting notices, an issue which Senator SPECTER has pursued for quite some time.

In the fiscal year 2002 appropriations, we provided separate funds for town meeting notices subject to a Rules Committee authorization, which has not yet occurred.

I would like to point out that Senators, on average, spend less than half the amount budgeted for franked mail—less than $3 million out of the $7.6 million budget. In addition, last year only a small number of Senators used town meeting notices. No Member, other than the Senator from Pennsylvania, has indicated the budget is inadequate. It doesn't appear that we have a significant problem, but in order to determine whether or not there is an interest in promoting town meetings with notices attendant thereto, and how widespread that problem might be, we have agreed to this pilot program for 1 year.

We have requested that by the end of the next fiscal year the Sergeant at Arms and the Doorkeeper of the Senate shall submit a report to the Committee on Rules and Administration and the Committee on Appropriations.

Mr. REID. Madam President, if I may take a few minutes, I will be very brief.

I wish to say a few things while the two managers of this bill are here. I had the opportunity in several Congresses to chair the Appropriations Legislative Branch Subcommittee. I can truly say that it was one of the most rewarding experiences I have had as a Member of Congress.

I understand how important the Library of Congress is to our country. We have certainly learned that with this bill. We were going through the years and there were cuts. No one wants to cut the Library of Congress. It is so important to the people of our States and of our Nation. Of the 13 appropriations bills, this one gets a lot of attention. It is as important as any of the appropriations bills.

I want to take a brief period of time to tell the two managers of this bill how impressed I am and how grateful I am for their recognition of the Capitol Police. There has never been a time, in my opinion, where we have recognized the dedication of the Capitol Police as it is recognized in this bill.

We went through a ceremony yesterday where we placed roses on the table in front of the pictures of the two fallen police officers—Gibson and Chestnut. When we walk in this building every day, these dedicated men and women are standing there, a lot of times not doing a lot, but every day they are there waiting to take bullets for us or for anyone who comes into this building which they are protecting. They do such good work.

The Capitol Police Force is well trained. They are as well trained as any police force in the country. As a result of this legislation, they will be better trained, better paid, and better recognized for the work they do.

I want this RECORD spread with the appreciation of the Senate and the people of Nevada and every other State where people come here and feel so safe as a result of the Capitol Police. As I said, I want the RECORD spread with the appreciation of the American people for the work the Senator from Illinois and the Senator from Utah have done on this legislation. It is landmark. It is so appreciated by me and every Capitol policeman. And anyone who knows anything about this legislation—or could learn—would also feel the same as I do.

Mr. DURBIN. Madam President, I thank my colleague from the State of Nevada for those kind words on behalf of myself and Senator BENNETT. I am glad he made reference to the memorial service yesterday for Officers Gibson and Chestnut, because it is a sad reminder of the important responsibility that the Capitol Police have undertaken on behalf not only those of us who are privileged to work in this building but the thousands and thousands of visitors who come here for the thrill of a lifetime to see this seat of democracy. Those two men gave their lives in service to our country. We should be reminded at all times that all the members of the Capitol Police Force are prepared to do the same.

There is no stronger advocate for the Capitol Police than Senator HARRY REID of Nevada. He speaks to me annually when this issue comes up to make certain we have not overlooked any element in terms of modernizing and professionalizing the Capitol Police. He is simply their strongest voice on the Senate floor.

I might also add that a close second is Senator WELLSTONE of Minnesota, who has a close, personal friendship with so many of the members of the Capitol Police. He comes to me regularly with observations that really come from the heart. I thank him for his inspiration as well.

I think this bill meets the needs of the Capitol Police. And as long as I am in this position or in any capacity, I will continue to strive for that goal.

I believe pending before us now is the amendment relative to the account for mailing of town meeting notices, which Senator SPECTER of Pennsylvania has asked us to include.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Madam President, at the outset, I thank my distinguished colleagues, the Senators from Illinois and Utah, for holding this matter until my arrival. I came as soon as I finished my round of questioning of the Attorney General, who is currently before the Judiciary Committee.

This amendment provides for $500,000 to be made available for a pilot project for mailings of postal patron postcards by Senators for the purpose of providing notice of town meetings in counties with populations of less than 250,000.

The reason for this amendment is to stimulate town meetings by Senators and to make us more aware as a body, individually and collectively, of what our constituents are thinking.

Until fairly recently, there was no limitation on mail and notices could be sent out to the largest of counties at a very considerable expense as a matter of record, so that the public knew how much a Senator was spending. Those figures were published with some frequency as to the mail expense accounts.

My own thinking is that there is no better use of our expense accounts than to communicate with our citizens about where we go personally to hear what is on their minds. Within the beltway, we are very insulated. In fact, people beyond the beltway do not even know what the "beltway" expression means. However, when we talk to each other, and do not communicate with our constituents, we do not have a feel for what is going on. The basis of representative democracy is that we are reflecting the will of our constituents. In order to do that, we have to know what it is.

When I say reflecting the will of the constituents, I do not mean taking a public opinion poll, or even if there is an enormous preponderance of the constituents, to follow that without question. I think Edmond Burke, centuries ago, laid down the proper standard, that an elected official in a representative democracy owes to his constituents his independent judgment. One of the factors Edmond Burke enumerated was the concerns, sensibilities, and views of the constituent.

These town meetings are very difficult affairs, perhaps even categorized as rough affairs. I have done 19 of them during the month of July, mostly during the Fourth of July recess.

My practice, which I know is standard for many of my colleagues who undertake these meetings, is to make a very short introductory statement, limiting it to five, six, or seven minutes, and then to respond to questions.

The questioning segment is the hot spot. I know the Presiding Officer and the other Senators in the Chamber, and any who may be watching on C-SPAN, know that because we have all had the experience.

This is not puff mail which you send out, where the effort has been made to limit what a Senator can do, sending pieces extolling the virtues of the individual Senator. This is an occasion where you are really on the line and have to identify and justify your votes and your positions.

Beyond the votes and existing positions, the town meetings acquaint a Senator with many issues the Senator does not know about, and that is the educational process. So it is not only a matter of responding to constituents, rather it is learning from constituents what the new issues are.

Since I completed the town meetings in July, I can say to my colleagues that there is great interest out there in Pennsylvania—and I believe Pennsylvania is a very representative State with more than 12 million people—about the need for a prescription drug program. The seniors are really hurting. Many instances were called to my attention by individuals who have low income with very high pharmaceutical bills. This is something that is really at the very top of the agenda. Enron and corporate scandals, prescription drugs, and terrorism were the three major subjects I heard about in the town meetings.

I am hopeful—and I have talked to authors of the bills on both sides—we will come to an agreement here and we will legislate on this subject and let it go to conference with the House of Representatives. I believe our job is to reconcile the differences. While we are talking about substantial sums of money, in the overall picture, an accommodation is better than having Senators adhere strictly to some top-dollar figure and not go beyond that. I believe there is a majority in the Senate to reach an accommodation somewhere between what the proposed bills have specified. My soundings are that a prescription drug program is something the American people not only want, but really need.

Along the same line, I sense overwhelming anger about what is happening in corporate America and what is happening with Enron and WorldCom, which were the subjects during the Fourth of July recess. This is not some theoretical matter about fraud and criminal conduct that ought to be prosecuted, this is a matter which is reaching Mr. Average American, Mr. Lower Income American, regarding retirement funds, which have been fractionalized. I am glad to see the conferees agreed on a program yesterday, with the Senate bill taking dominance.

Even with the work I have had as a prosecutor on fraud cases and business fraud, I am surprised at what has happened here. Every day there is a new revelation. For the major banks to be complicit, at least according to public reports on Enron, is beyond shocking.

We really rely, in our society, on the accountants, the attorneys, and the bankers, who are really in a quasi-fiduciary, if not strictly fiduciary capacity, to catch these matters, and especially where it is so lucrative. For them to yield to the pressure to cut corners and to sanction fraud in order to keep a customer or to please a customer is just really beyond the pale.

We have had a lot of problems in the long history of this country, however, I think this is one of the most extraordinary. The day before yesterday, we found out about the bankers being complicit, or allegedly complicit, with Enron. We see the SEC investigation disclosed yesterday, as stated in this morning's press, about AOL having fraudulent transactions and boosting their profits fraudulently. It is a surprise to me that an entity as sophisticated as Time Warner would be taken in by corporate chicanery.

So these are matters which are very much on the minds of the American people. You have to go to a town meeting and take the temperature of the people to really see how very serious it is.

This amendment provides that $500,000 will be used to send out postal patron notices, providing that the Senator pays 50 percent. So we have a good co-pay provision here. Senators are not going to be inclined to send these postal patron notices out without having to pay for one-half of the cost themselves, with the critical requirement that the Senator has to appear. The limitation is put on counties with fewer than 250,000 people because if you send it to a county such as Allegheny County, which has Pittsburgh, or Philadelphia County, it is an enormous expense. We can communicate with our constituents in those major metropolitan areas in ways other than by coming to the county.

However, if you talk about Potter County, in north central Pennsylvania, on the northern tier abutting New York State, or you talk about Fulton County, on the Maryland border, those folks really like to see you. You send out a notice, and you get 35 people, and you sit and talk to them. I was in Forest County, and we did not get 35 people, however, I learned a lot from being in Forest County. I think the people in Forest County learned something, too.

So I thank my colleagues for accepting this amendment. We had it in last year at a higher figure, subject to authorization. We could not get the hearing worked out. However, I know that this is a test case. I am going to be encouraging my colleagues to do these town meetings, so when the audit comes up, my name is not the only name listed as a recipient. We will await the results of the audit on the pilot program to see just how effective and important this program is.

Again, I thank my colleagues and thank the Chair, and I yield the floor.

Mr. DURBIN. Madam President, I thank the Senator from Pennsylvania.

If there is no further debate on this amendment, I urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

Without objection, the amendment is agreed to.

The amendment (No. 4323) was agreed to.

Mr. DURBIN. I move to reconsider the vote.

Mr. BENNETT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4324

Mr. DURBIN. Madam President, I send an amendment to the desk on behalf of Senator DODD and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN], for Mr. DODD, proposes an amendment numbered 4324.

Mr. DURBIN. Madam President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: Providing public safety, exception to inscriptions requirement on mobile offices)

On page 9, between lines 17 and 18, insert:

SEC. . PUBLIC SAFETY EXCEPTION TO INSCRIPTIONS REQUIREMENT ON MOBILE OFFICES.

(a) IN GENERAL.—Section 3(f)(3) under the heading ''ADMINISTRATIVE PROVISIONS'' in the appropriation for the Senate in the Legislative Branch Appropriation Act, 1975 (2 U.S.C. 59(f)(3)) is amended by adding at the end the following flush sentence:

''The Committee on Rules and Administration of the Senate may prescribe regulations to waive or modify the requirement under subparagraph (B) if such waiver or modification is necessary to provide for the public safety of a Senator and the Senator's staff and constituents.''

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of enactment of this Act and apply to the fiscal year that includes such date and each fiscal year thereafter.

Mr. DURBIN. Madam President, this amendment amends title II of the U.S. Code to authorize the Rules Committee to establish regulations to waive or modify requirements on mobile offices for public safety reasons.

Mr. BENNETT. Madam President, I am in favor of this amendment.

Mr. DURBIN. Madam President, if there is no further debate on the amendment, I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Without objection, the amendment is agreed to.

The amendment (No. 4324) was agreed to.

Mr. DURBIN. I move to reconsider the vote.

Mr. BENNETT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DURBIN. Madam President, unless the Senator from Utah has any further amendments or modifications, I do not believe there are any additional actions on the bill.

Mr. BENNETT. Madam President, one of the pleasures of handling this bill is that there are almost always no additional amendments or complications.

Mr. DURBIN. I thank the Senator from Utah and yield back all my time.

The PRESIDING OFFICER. Does the Senator from Utah yield back his time as well?

Mr. BENNETT. The Senator from Utah yields back all his time.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The PRESIDING OFFICER. Under the previous order, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I ask unanimous consent that the vote on passage of H.R. 5121, the legislative branch appropriations bill, occur at 1:50 p.m. today, with rule XII, paragraph 4 being waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent that there be a period of morning business with Senators allowed to speak therein for a period not to exceed 10 minutes each up until 1:50 today, the time set for the vote, and the time to be equally divided and controlled in the usual form between the two leaders or their designees.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

GREATER ACCESS TO PHARMACEUTICALS ACT

Mr. HATCH. Mr. President, I rise to speak on the pending legislation, S. 812, the Greater Access to Pharmaceuticals Act. Even if I had major differences of opinion on the substance of this legislation, I commend Senators MCCAIN and SCHUMER, KENNEDY and EDWARDS for their efforts in this area.

I especially wish to recognize the efforts of Senators KENNEDY, EDWARDS, and COLLINS for their work, which was almost a complete rewriting of the McCain-Schumer bill. Let me also hasten to commend Senators GREGG and FRIST for working to improve the bill that emerged from the HELP Committee and for their leadership during the debate.

Mr. President, last week, I provided a brief summary of the existing statute that S. 812 seeks to amend, the Drug Competition and Patent Term Restoration Act of 1984. I happen to know something about this law, which is commonly referred to as the Waxman-Hatch Act, or alternatively, the Hatch-Waxman Act.

Last week, I gave an overview of my concerns with the HELP Committee legislation. With those comments in mind, today, I want to delve further into the details of the HELP Committee re-write of S. 812 the bill originally introduced by Senators MCCAIN and SCHUMER.

The central components of S.812 are aimed at rectifying concerns raised in recent years over two features of the 1984 law: first, the statutory 30-month stay granted to a pioneer firm's facing legal challenges to its patents by generic competitors; and, second the 180-day period of marketing exclusivity awarded to generic drug firms that successfully challenge a pioneer firm's patents.

During debate on S. 812, there have been a number of comments indicating that there is a substantial problem with these two provisions. That may or may not be the case. One great disadvantage of holding the floor debate at this time is that we do not have the benefit of an extensive Federal Trade Commission survey of the pharmaceutical industry that focuses on precisely these two issues that go to the heart of S. 812 and the substitute adopted by the HELP Committee. The results of this long-awaited, extensive, industry-wide FTC survey are expected in a few weeks.

I have stated on numerous occasions that before this body undertakes a substantial rewrite of provisions central to the Hatch-Waxman Act, we should have the benefit of the FTC study and its implications.

The Senate could have taken a more prudent course. The Senate could have waited for the FTC report. We—and by we I specifically include the Senate Judiciary Committee—could have held hearings on the FTC study, evaluated the data, and then discussed, debated, and refined the actual, now barely two-week old, legislative language that is pending on the floor today.

But this was not possible due to the tactical decision of the Majority to dispense with the regular order so as to minimize the politically-inconvenient fact that the Senate Finance Committee would have most likely have rejected any Democratic Medicare drug proposal in favor of the Tripartisan approach.

To my great disappointment, although not anyone's great surprise, we failed to arrive at the 60-vote consensus required to enact a Medicare drug bill in the Senate. Make no mistake about it. This is a great failure for the American people because for two years now we have set aside $300 billion in the federal budget to be spent over 10 years to provide prescription drug coverage for Medicare beneficiaries.

We have all heard from elderly constituents many of whom live on limited, fixed-incomes—who have had substantial difficulties in paying for prescription drugs. Rather than rise to the occasion and make good on our promise to rectify that situation, and we are letting this abundant opportunity slip between our fingers.

I am very disappointed with the outcome of the votes Tuesday. It is my hope that we can find a way to come together on the important issue of a Medicare drug benefit for our seniors.

At a minimum, we should use the $300 billion already in the budget to expand drug coverage for those seniors who need the most help. What we should not do is enact an expensive, government-run scheme that could bankrupt our country and plunge our economy further into the abyss when the government usurps what should legitimately be a private-sector-run benefit.

The collapse of any 60-vote consensus on the Medicare drug benefit does not show the public the type of bipartisan spirit that voters across the country say they prefer, in poll after poll after poll.

And so, we move back to the important, if more mundane, matters in S. 812.

One of the real marvels of this debate is that we have finally found out who the bad guys are in this debate.

It is not the government that has failed to make good on the promise to provide needy seniors with pharmaceutical coverage.

No, it's the pharmaceutical industry, an industry that is working day and night to bring us the medicines, the miracle cures that seniors seek.

I just had no idea that is who was going to be blamed.

This game plan comes right out of the Clintoncare play-book. As you hear attack after attack on the drug companies, I just want all of you listening to this debate to know that a similar tactic was employed by the Democrats when they tried to foist Clintoncare on a very unreceptive public back in 1993 and 1994.

Here is how David Broder and Haynes Johnson, two highly respected journalists, described the tactics of the Clinton White House in trying to pass its too grand health care reform plan:

This quote is from ''The System,'' a book by Haynes Johnson and David

Broder, two leading political writers in this town, both of whom write for the Washington Post. Neither of them would be considered, by any stretch of the imagination, conservative. This is what they had to say in this book called ''The System,'' talking about the American way of politics and how health care policy is formed:

In the campaign period, Clinton's political advisors focused mainly on the message that, for ''the plain folks, it's greed—greedy hospitals, greedy doctors, greedy insurance companies. It was an us versus them issue, which Clinton was extremely good at exploiting.

This is the second quote:

Clinton's political consultants—Carville, Begala, Grunwald, Greenberg—all thought ''there had to be villains.'' At that point, the insurance companies and the pharmaceutical companies became the enemy.

As you can see, here are two liberal political writers who summarized the Clinton health plan.

Villains . . . enemies all this sounds familiar in this debate. So, I will stipulate for the purpose of this debate that the pharmaceutical industry is the designated villain.

It strikes me as curious at least that the sector of the economy that plows back the highest portion of its revenues back into research—and research on life-threatening diseases no less—is treated with such disdain, at times even contempt, on the floor of the Senate.

Mr. President, from what has been said on the floor of the Senate you would think that this industry is trying to cause cancer, not trying to find cures.

I note that Senator KENNEDY has suggested our nation's biomedical research establishment has not really made much progress over the past few decades in terms of developing new drugs. I think the facts speak otherwise.

For example, consider the array of medicines that have been developed to treat HIV infection and the complications of AIDS. Through the unique public/private sector partnership that comprises the U.S. biomedical research enterprise, AIDS is being transformed from an invariably fatal disease into a chronic condition that we are so hopeful one day will have a cure.

These advances do not come easily or on the cheap. I would note the exciting reports from the recent International AIDS meeting in Barcelona concerning the new class of AIDS medications represented by the new drug, T–20. Unlike many of the current anti-retroviral medications like AZT that seek to inhibit the replication of the HIV virus, T–20 attempts to block entry of the virus into healthy cells.

Here is what one press account has said about this still unapproved, but highly promising drug:

But it takes 106 steps more than 10 times the usual number of chemical reactions to make the lengthy peptide, making production a serious factor in its price. Roche refurbished a plant in Boulder, Colorado, just to make T–20. Almost 100,000 pounds of specialized raw materials are needed to make a little more than 2,200 pounds of the drug. In all, Roche has invested $490 million in T–20's development and manufacturing.

Let us not be too quick to characterize as villains and enemies those scientists and companies who are working every day to overcome dread diseases like AIDS. Think of the imagination and expertise required to design all 106 chemical reaction required to make T–20. How many times must they have failed to come up with the correct chemical pathway?

I might add, as Senator FRIST pointed out on the floor last week, that infectious disease experts like Dr. Tony Fauci at NIH have said that despite the substantial promise of T–20, there is still more work to be done on this drug. Specifically, it is imperative to develop a tablet form of this currently intravenous preparation if we will be able to effectively use the product in the Third World.

Some in this debate have minimized the importance of product formulation patents and have suggested that such patents should not be eligible for the 30-month stay. But public health experts such as Dr. Anthony Fauci one of the leading experts in the world, are telling us that the formulation of drugs like T–20 is critical. Who is to say that the steps in addition to the 106 steps already painstakingly identified to make the IV preparation necessary to make a tablet form of the drug are not worthy of the same protection afforded other pharmaceutical patents since 1984?

And if it turns out that such a formulation patent issues more than 30-days after FDA can one-day approve a new drug application for a tablet form of T–20, why should this patent be given less procedural protection than other related patents? But this differential treatment of patents is exactly what could occur if we adopt the pending legislation.

Mr. President, the Hatch-Waxman Act has been called one of the most important consumer bills in history. It has helped save consumers, by the Congressional Budget Office reckoning, $8 billion to $10 billion every year since 1984. It created the modern generic drug industry by creating this delicate balance between the pioneer research companies, and the generic companies that could readily copy drugs under Hatch-Waxman. The scientific work that had taken R & D firms up to 15 years, $800 million and at least 5,000 to 6,000 failed drug companies for each successful new drug could be used by general firms under the 1984 law.

I might add, the Hatch-Waxman Act has brought the generic industry from little over 15 percent of the marketplace to 47 percent as we speak, and it is going up all the time. That is what we thought should happen.

We are at $490 million and still counting for this still unapproved promising new AIDS drug, T–20.

Remarkable progress in the field of drug development has been made over the past 18 years since Waxman-Hatch was adopted. We have seen enormous strides in the treatment of heart disease, diabetes, arthritis, Alzheimer's and many others, including the 200 new drugs that have been approved to treat lower prevalence, so-called orphan diseases another bill that I helped author. I am proud to have been an author of the Orphan Drug Act that has given hope to so many American families.

If our Nation is going to develop diagnostic tests, treatments, and vaccines to prevent and counter attacks of bioterrorism and potential chemical or even nuclear terrorism, just whom do you think is going to develop these products? I will tell you who. It will be those ''villains'' in the pharmaceutical industry, in partnership with government and academic researchers, unless we hamper their ability to do so, if we do not watch ourselves carefully on this Legislation.

At some point we must put aside this one-dimensional, simplistic vilification of the pharmaceutical industry and examine more closely the actual substance of the pending legislation.

Are the PhRMA companies always right? No, they are not, and neither are the generic companies always right. Hatch-Waxman created a delicate balance so they were competitive against each other, and it has worked very well.

It is my strong preference to conduct the debate over amending the Hatch-Waxman Act with our eyes focused on the policies, not the politics.

As I said last week, the pending legislation, S. 812, addresses important and complex issues of patent law, civil justice reform and antitrust policy. A strong case could be made that Senate consideration of this bill would be improved if the Judiciary Committee were given the opportunity to study the legislation, review the Federal Trade Commission report, and make its voice heard in this debate. It seems unlikely that anything resembling this process will unfold given the decision to rush the HELP Committee patent, antitrust, civil justice reform bill to the floor of the Senate.

As a threshold matter, it seems to me that before we adopt S. 812, we should be certain that this bill is consistent with the longstanding goals of the statute S. 812 seeks to amend, the Drug Price Competition and Patent Term Restoration Act.

Let me remind my colleagues, the goals of this law, passed in 1984, are twofold:

First, to create a regulatory pathway that allows the American public to gain access to more affordable generic drugs; and,

Second, to create incentives for manufacturers of pioneer drug products to see that the American public has access to the latest, cutting-edge medicines.

As I described last week, the 1984 law is a carefully balanced statute and contains features designed to accomplish

these two somewhat conflicting goals. This tension is inherent because of the competing nature of the desire, on one hand, to develop breakthrough drugs and, on the other hand, to make available generic copies of these pioneer products.

As legislation is crafted to address the problems that have arisen up in recent years with respect to the Waxman-Hatch law, we must be careful not to devise a remedy that upsets the delicate balance of the law.

I am concerned that the manner in which the HELP Committee substitute tries to fix the two most widely cited shortcomings of the 1984 law may, in fact, disturb the balance of the statute by, in some areas, overcorrecting and, in other areas, undercorrecting for the observed problems.

Specifically, while the manner in which the Edwards-Collins HELP Committee substitute addresses the 30-month stay issue represents a major improvement over McCain-Schumer bill, I am afraid though, the 30-month stay language represents a case of overcorrection.

Last Thursday, I gave a short summary of the key provisions of the Hatch-Waxman Act. It only took me 1 hour and 32 minutes. After providing this background and context, I explained why I thought that the provisions of the pending legislation relating to patent rights and the 30-month stay went too far. Let me reiterate my concerns with the 30-month stay.

As has been stated by many during this debate, a pioneer drug patent holder, whose patents are under challenge by a generic drug manufacturer, is accorded an automatic 30-month stay. This was not some giveaway to the innovator pharmaceutical industry. We inserted this mechanism to protect the intellectual property of companies that develop patented medications, companies, I might add, that were going to be afforded less intellectual property protections than any other industry as part of the 1984 law. We knowingly added this provision because we wanted to give them a fair opportunity to defend their patents. We know that patent litigation is itself a risky endeavor with the federal circuit court overturning about 40 percent of the trial court decisions in some areas of patent law.

The public policy purpose for this stay is to allow time for the courts to determine the status of validity of drug patents and/or to decide whether valid patents are, or are not, infringed by a generic drug challenger.

That was the intent of the law. Many believe—and I share that view—that the 30-month stay provision has come to present problems in two areas: First, later issued patents that trigger last minute 30-month stays; and, second, multiple uses of the 30-month stay provision in a consecutive, over-lapping manner that work to bar generic competition for as long as the litigation can be made to drag on by lawyers who are paid by the hour.

Some in this debate have characterized that both of these problems are at epidemic proportions. While I think there is evidence that problems have occurred and it is important that we work to modify the law so that the 30-month stay can not be misused in the next few years when so many blockbuster drugs come off-patent we should all take a close look at the FTC report before we conclude that as a general matter the entire research-based pharmaceutical industry has systematically abused the 30-month stay. That is just a speculation at this point until we see all the data.

I will be very interested in what the FTC reports on a number of issues—the frequency of use of multiple 30-month stays; stays stemming from late issued patents; the outcome of litigation on the merits when such multiple stays have been employed; and 11th-hour stays exercised due to late-issued patents.

It seems to me that we should be highly skeptical whenever a patent is listed in the official FDA records, called the Orange Book, years after the FDA approved the drug. One would have to think that all key patents would have been at least applied for prior to the end of the lengthy FDA review.

We all know of the now infamous case of the drug, Buspar. An attempt was made to take advantage of the 30-month stay by listing in the Orange Book a new patent of the metabolite form of the active ingredient of the drug literally in the last day before the original patents were set to expire. A Federal district court stepped in to limit the stay to four months, not 30-months. The appellate court found, however, that this forced de-listing of the patent was improper.

My opinion is that Congress, after getting the better understanding of the facts that the FTC report can provide, should address the consecutive stay and last-minute stay problems.

From what I know today, I am not prepared to conclude that the Edwards-Collins substitute is a measured solution to the cited problems. The bill that passed the HELP Committee and is pending on the floor would limit the 30-month stay to those patents issued within 30-days of FDA approval of the drug. The pending legislation contains major improvements over substantial elements of the McCain-Schumer bill, such as the language that would have completely eliminated the 30-month stay in favor of a system that required case-by-case application of injunctive relief. It is also better than the language the HELP Committee Chairman KENNEDY circulated briefly before the mark-up that would have limited to 30-month stay to certain types of patents.

As I laid out in detail last Thursday, given the facts available at this time, I think a better policy may be to permit one, and only one, 30-month stay to apply to all patents issued and listed with FDA prior to the time a particular generic drug application is filed with the agency, which cannot occur under the law until at least four years have elapsed in the case of new chemical entities. At a minimum, I do not see what justification exists to differentiate, for the purpose of the 30-month stay, patents issued prior to four years after the FDA first approves a drug.

I would also add that in most European nations and in Japan, it is my understanding that the law provides a 10-year period of data exclusivity—independent of patent term before a generic copy may be approved for marketing. The public policy behind these periods of data exclusivity is to recognize the fact that in approving generic drugs, the government regulatory agency is relying upon the extensive, expensive—and prior to enactment of Hatch-Waxman, generally proprietary, trade secret—safety and efficacy data supplied by the pioneer firm.

At any rate, as I explained last week, current U.S. law does not even allow a generic drug applicant to challenge a pioneer firm's patents until four years have elapsed. Why shouldn't, for example, a formulation patent issued one year after a drug is approved not be protected by the 30-month stay if the challenge cannot be made for 3 more years?

The 30-month stay must be understood in the context of the complexities of the 1984 Waxman-Hatch law that generally provides 5 years of marketing exclusivity to pioneer drug products as part of the recognition for allowing the generic firms to rely on the pioneer's expensive safety and efficacy data. Moreover, I think that any discussion of the 30-month stay is incomplete if it does not include the fact that, under Hatch-Waxman, generic drug firms are given a unique advantage under the patent code that allows them to get a head start toward the market by allowing them to make and use the patented drug product for the commercial and ordinarily patent infringing purpose of securing FDA approval and scaling up production.

Let me quickly review the general rule against patent infringement that is set forth in Title 35 of the United States Code, section 271(a). It says:

> . . . whoever without authority makes, uses, offers to sell, or sells any patented invention . . . during the term of the patent . . . infringes the patent.

This is a clear, unambiguous protection of property rights, as it should be to protect the creative genius of America's inventors.

Section 271(e) of title 35 contains the so-called Bolar amendment that was added to the patent code by the Hatch-Waxman Act to create a special exception for generic drug manufacturers. Section 271(e)(1) states:

> It shall not be an act of infringement to make [or] use . . . a patented invention . . . solely for uses reasonably related to the development and submission of information under a federal law which regulates the manufacture, use, or sale of drugs or veterinary biological products.

Essentially, this particular provision I have just read gives generic drug manufacturers a head start over virtually all other producers of generic products. In other words, it gives the generic industry a tremendous advantage. Normally, making and using a patented product for the purpose of securing regulatory approval would be a clear case of patent infringement under section 271(a), but the Bolar Amendment—which overrode a 1984 Federal Circuit Court of Appeals decision that precluded generic drug firms from using on-patent drugs to secure FDA approval or gear up production, in other words, the case overruled that right—allows the generic firms to violate customary patent rights because we put it in Hatch-Waxman. Section 271(e) is the Hatch-Waxman language.

The public policy purpose of the Bolar Amendment meaning the Bolar amendment provided by the Hatch-Waxman Act is to allow generic drug makers to secure FDA approval and come onto the market the day after the patent on the pioneer drug expires. As I explained last week, there is a balance between the head start that the Bolar Amendment gives to generic manufacturers and the protection that the 30-month stay gives pioneer firms to litigate the validity of their patents.

Given the unique head start that the Bolar Amendment grants generic drug manufacturers over virtually all other generic product manufacturer and the other factors I have discussed, I question whether restricting the 30-month stay to only those patents issued within 30-days of FDA approval is either necessary, fair, or wise.

Moreover, the HELP Committee bill contains file-it-or-lose-it and sue-on-it-or-lose-it provisions as well as a new private right of action which also act to further diminish the value of pharmaceutical patents, or should say pharmaceutical patents, to be more accurate.

Let me first address my concerns regarding the creation of a private right of action, and then move on to the serious and detrimental effects that the file-it-or-lose-it and sue-on-it-or-lose-it provisions would have on pharmaceutical patent holders.

I have two fundamental concerns with authorizing a private cause of action that would allow applicants to bring declaratory actions to correct or delete patent information contained in the FDA ''Orange Book.''

First, over the past 30 years, the courts have explicitly held that no private right of action is authorized under the Federal Food, Drug, and Cosmetic Act or ''FDCA'' e.g., ''It is well settled . . . that the FDCA creates no private right of action.'' In re: Orthopedic Bone Screw Products Liability Litigation, 193 F.3d 781, 788 (3d Cir. 1999).

Moreover, the Court of Appeals for the Federal Circuit specifically addressed whether the Waxman-Hatch amendments to the FDCA did not indicate any congressional intent to create a private right of action, stating that the court could ''see nothing in the Hatch-Waxman Amendments to alter'' the conclusion that private parties are not authorized to bring suit to enforce the FDCA.

By seeking to create a private right of action, this provision represents a truly unprecedented step that runs contrary to 30 years of judicial interpretation. I believe that this would create an unwise, and potentially dangerous precedent that could be used to justify future legislation authorizing private suits to enforce the numerous and varied provisions of the FDCA. Although I understand—and am sympathetic to—the underlying rationale for this provision, I simply do not think that creating a private right of action is an appropriate answer to the problems cited by the advocates of this provision.

Second, as the Administration has succinctly stated: ''this new cause of action is not necessary to address patent abuses,'' and may ''unnecessarily encourage litigation'' surrounding the approval of new drugs. I certainly agree. Authorizing this new cause of action will not effectively address the alleged patent abuses.

Now, I want to emphasize here that I strongly support efforts to halt anticompetitive abuses of the patent laws and the laws and regulations involving the listing of patent information in the FDA ''Orange Book.'' I am willing to work with members from either side of the aisle on this issue. However, I am convinced that creating a private right of action will not only fail to stop the patent abuses at issue, but will likely have substantial unintended detrimental effects on the drug approval process.

The file-it-or-lose-it provision that says patent rights are waived if each new patent is not promptly filed with FDA and the sue-on-it-or-lose-it provision that would result in the forfeiture of patent rights if a pioneer drug firm does not sue within 45 days of being notified of a patent challenge should be contrasted with current law for all other types of patents. Section 286 of the federal patent code establishes a six-year statute of limitations on seeking damages for patent infringement. Why should this usual six-year period be decreased to 45-days for pharmaceutical patents?

I should also note the section 284 of the patent code explicitly authorizes the courts to award treble damages in patent infringement actions. This is a strong signal that Congress wants to protect intellectual property. We should think twice when we are considering adopting measures, such as the Edwards-Collins language, that act to undermine longstanding patent rights such as the six-year statute of limitation on patent damage actions.

As I said last week, I am mindful that the treble damage provision places a generic firm patent challenger in a difficult decision if the firm were forced to go to market upon a district court decision in a patent challenge situation. That is why I am generally sympathetic to the argument of generic manufacturers that current law should be overturned and any marketing exclusivity a generic firm might earn by beating a pioneer firm's patents should toll from an appellate court decision. In the case of multiple patents and multiple challengers, the policy might have to be refined if the result is that no generic product can reach the market within a reasonable period of time.

As I pointed out, HELP Committee Edwards-Collins language is barely two weeks old, I am not alone in raising concerns about this new language. The Administration opposes this language. The Statement of Administration Policy states, in part, that:

> S. 812 would unnecessarily encourage litigation around the initial approval of new drugs and would complicate the process of filing and protecting patents on new drugs. The resulting higher costs and delays in making new drugs available will reduce access to new breakthrough drugs.

That is important.

I look forward in the next weeks to hearing the detailed comments from Administration experts on these matters as we get the FTC report.

We are also starting to hear from others on this new, substantially changed, language. Senator FRIST placed in the RECORD last week a letter from the Biotechnology Industry Organization that complains about the manner in which the bill undermines existing patent protection.

I would just note that the organization representing our nation's cutting edge biotechnology companies, BIO, expressed great dissatisfaction with this new bill language. The July 15th BIO letter says in part:

> If enacted, these proposals would significantly erode the measures in Hatch-Waxman to ensure an effective patent incentive for new drug development, and would create undesirable precedents for sound science-based regulations of drug products in the United States.

BIO also has some sharp criticism of the patent forfeiture provisions set forth in the file-it-or-lose-it and sue-on-it-or-lose-it clauses in the bill. BIO says:

> This forfeiture will occur without compensation, without a right of appeal and without any recourse. This provision is probably unconstitutional, and in any event is totally unconscionable.

Also adding its voice to the debate over this new, unvetted language is the American Intellectual Property Law Association. The AIPLA is a national bar association representing a diverse group of more than 14,000 individuals from private, corporate, academic and governmental practice of intellectual property law.

Mr. President, I ask unanimous consent to have printed in the RECORD a copy of a July 22, 2002 letter from the AIPLA.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN INTELLECTUAL PROPERTY LAW ASSOCIATION

Arlington, Virginia

Hon. ORRIN G. HATCH,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATCH: I am writing on behalf of the American Intellectual Property Law Association to express our concerns about provisions in S. 812 that would undercut long standing principles of patent law and would set an unfortunate example for other nations to emulate.

The AIPLA is a national bar association of more than 14,000 members engaged in private and corporate practice, in government service, and in the academic community. The AIPLA represents a wide and diverse spectrum of individuals, companies and institutions involved directly or indirectly in the practice of patent, trademark, copyright, and unfair competition law, as well as other fields of law affecting intellectual property. Our members represent both owners and users of intellectual property.

While we take no position on the need for revisions in the practice of ''patent listings'' in applications for drug approvals before the FDA, AIPLA believes that providing a new civil action to delist patents is ill advised. Such actions would involve the issues of (a) whether the innovator's product is actually covered by the patent-at-issue and (b) potentially, the validity of the patent. Irrespective of the merits of allowing challenges to the listing on the basis of its accuracy, vesting courts with jurisdiction over patent issues in this circumstance where there is no case or controversy is inappropriate. Such proposed new civil actions would be invitations to increased litigation and threats of litigation over such issues without corresponding public benefit.

If a generic drug company wished to challenge the validity of a listed patent, we would suggest that a far better alternative would be to require that it be through the normal procedure of a request for patent reexamination. To the extent that the existing proceedings might not be considered adequate for such challenges, not only are there bills to strengthen them (H.R. 1866, H.R. 1886, and S. 1754), but there is currently a proposal being developed by the U.S. Patent and Trademark Office to establish a post-grant opposition proceeding that would provide a more robust challenge procedure. Such proceedings are not only handled by the experts in the U.S. Patent and Trademark Office in the first instance, but all appeals would go to the Court of Appeals for the Federal Circuit which handles almost all patent appeals from normal infringement litigation.

Another aspect of S. 812 which we find troubling is the proposed prohibition against a patentee bringing a patent infringement action against a generic drug company for a patent not listed (and/or not properly listed) in an application for FDA approval. Under current provisions in the law, a patent owner loses the right to file a patent infringement law suit which has the effect of staying the FDA's approval of a generic drug for 30 months to allow resolution of the law suit if (a) the patent is not listed with the FDA or (b) the suit is not brought against the generic drug company within 45 days of receiving an appropriate certification notice that is listed patent is either invalid or not infringed. They do, however, retain the right to bring an infringement suit at a later date. The effect of the present amendments would be to take that right away from the patent holder. This would be an arbitrary denial of a remedy guaranteed to patent holders in all fields of technology.

We also point out that the denials of relief noted in the preceding paragraph would be limitations on pharmaceutical patents which could implicate certain non-discriminatory obligations of the United States under the Agreement on the Trade-Related Aspects of Intellectual Property Rights (TRIPs), part of the Uruguay Round Agreements. At a time when the Agreement is under challenge from many quarters following the Doha Ministerial Conference, certainly these provisions of S. 812 should be vetted with the Office of the U.S. Trade Representative for their consistency with TRIPs.

In summary, while we take no position on the need for legislation to change the provisions of the 1984 Hatch-Waxman Act or on the merits of the respective positions of innovator drug companies and generic drug companies, we are concerned that these provisions of S. 812 are contrary to good patent law policy and enforcement. Indeed, they would establish principles that would do great harm to the ability of innovators to realize adequate and effective patent protection and set bad examples by the United States when viewed by other nations that are seeking ways to avoid providing such protection. If reform is needed, it should take other forms and directions.

Sincerely,

MICHAEL K. KIRK,
Executive Director.

Mr. HATCH. While taking no position on the need for changing the patent listing provisions of Hatch-Waxman, the AIPLA said that it believes that:

Providing a new civil action to delist patents is ill advised . . . Irrespective of the merits of allowing challenges to the listing on the basis of its accuracy, vesting courts with jurisdiction over patent issues in this circumstance where there is no case or controversy is inappropriate.

The AIPLA also red flags the file-it-or-lose-it patent forfeiture provisions of the pending legislation by pointing out that these, and I quote,

. . . would be limitations on pharmaceutical patents which could implicate certain nondiscriminatory obligations of the United States under the Agreement on the Trade Related Aspects of Intellectual Property Rights (TRIPS). At a time when the Agreement is under challenge from many quarters following the Doha Ministerial Conference, certainly these provisions of S. 812 should be vetted with the Office of the U.S. Trade Representative for their consistency with TRIPS.

I agree we should hear from United States Trade Representative on this matter. I also agree with the American Intellectual Property Law Association when it closed its letter with the following statement: ''If reform is needed, it should take other forms and directions.''

Finally, Mr. President, I would like to make my colleagues aware of, and ask unanimous consent to have printed in the RECORD, a statement from the law offices of David Beier.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INNOVATION IN HEALTH CARE AND THE RESULTING IMPROVEMENTS IN MORTALITY AND HEALTH OUTCOMES WILL SUFFER FROM THE RETROACTIVE TAKING OF PROPERTY RIGHTS POSED BY THE SENATE H.E.L.P. COMMITTEE PASSAGE OF THE EDWARDS SUBSTITUTE TO S. 812

In the last 50 years there have been dramatic improvements in life expectancy and better health care outcomes, in pertinent part, because of new drugs and therapies. These advances have occurred because the United States, unlike some other nations, has used a strong patent system to help create a balanced set of incentives. That system of incentives for innovation is at risk, if as proposed in the pending bill, the investment backed and settled property rights in patents are retroactively taken away.

The substitute amendment to the Schumer-McCain bill adopted July 11 proposes to deprive property owners—in this case patent holders—of the most fundamental of property rights, the right to exclude others from using their property without just compensation. The bill works this result by taking away the right to sue. As explained in greater detail, the bill proposes to prevent holders of valid patents from suing generic drug companies. This proposal is not only bad policy but poses at least three serious legal problems.

First, the proposed bill takes away an essential attribute of a patent—the right to enforce it against copiers. This deprivation is either a per se taking of property under the relevant Supreme Court case law, or works a taking in light of the case by case constitutional test outlined by the same court. The pending bill would work a per se taking if a Court determined that the loss of a fundamental right—like the right to sue—was the equivalent of a total physical occupation of a piece of real property. There is a good case that a court would so find. But regardless of whether this proposal would meet that test, the courts would most surely find that the loss of the right to sue would be a taking of property that required just compensation under the other applicable constitutional test.

Under current Supreme Court precedent, if enacted, these amendments would be evaluated under a taking analysis that would measure the nature of the property involved, the nature of the economic right and the degree of governmental interference. In this case, it is well settled law that a patent is a property right. It would be absurd to uphold that right and then claim that barring access to the courthouse does not violate that right. Because this amendment would work a fundamental and retroactive deprivation of those economic rights courts would likely hold that these changes are a taking. Such a finding triggers a requirement of government compensation of the property owners. At the President's Council of Economic Advisers recognized in their report to the President earlier this year, the kinds of inventions at risk here—both breakthroughs and incremental improvements in existing products—are critical to improved health outcomes. That same report also recognized that these products require the free market possibility of substantial profits to sustain the magnitude of the R+D necessary to overcome the risk of research failures, and competition from others also racing to be first on the market with new medical innovations. This reality would mean that a successful taking suit would implicate many claims of significant economic loss. Thus, it is likely that any finding would have very serious implications for the Federal budget.

Second, there is a strong argument that this amendment interferes with the right of

patent holders to petition their government through the judicial system for a redress of their grievances. In this case, much like the efforts of others in an earlier time, seeks to prevent courts from enforcing rights guaranteed by the Constitution. This approach can not be justified in light of the compelling constitutional right to have full and fair access to redress grievances.

Third, and finally, this amendment makes artificial and illegal distinctions between types of patents in violation of the United States' obligations under international law. One of the important advances in law, secured at the request of the United States, in the World Trade Organization's Trade Related Intellectual Property system was a bar on discrimination between different technologies. In this case, the amendment proposes to withdraw significant patent rights from the holders of certain innovative drug patents that continue to be guaranteed to all other patent holders. Imagine if another nation proposed to cut off the right to sue for infringement for the violation of an aerospace, computer or computer software patent, we certainly would assert that it violated our Nation's rights under TRIPS. The pending amendment offers the same kind of flawed and illegal approach. In the case of a TRIPS violation the penalty could, after adjudication in the WTO, result in the imposition of retaliatory tariffs on American exports.

In sum, the pending amendment is a bad idea on policy grounds, procedurally suspect and legally subject to challenge. Congress should carefully consider the risks to the Federal Treasury that could result if this bill were enacted and the courts uphold a strong ''taking'' of property claim. Moreover, legislators should also be cognizant of the bad precedent they would be creating by barring access to judicial remedies. Finally, Congress should recognize that if approaches to international obligations like this are adopted, other countries will be more likely to punish American inventions in other sectors, including information technology and aerospace.

Mr. HATCH. Mr. Beier was a member of the staff of the House Judiciary Committee when Hatch-Waxman was adopted in 1984. After that, for many years he headed the Washington office of the biotechnology company, Genentech. Mr. Beier then spent four years serving as the chief domestic policy advisor for Vice President Gore. He is recognized as an expert in high technology issues and is now a partner in highly respected Washington law firm. David is certainly not a conservative Republican although I still have my hopes for him!

In Mr. Beier's view, ''the pending amendment is a bad idea on policy grounds, procedurally suspect and legally subject to challenge.'' Mr. Beier lays out the Takings Clause problems, the procedural due process concerns, and the TRIPS considerations.

With respect to the potential for negative impact on foreign trade Mr. Beier warns:

Imagine if another nation proposed to cut off the right to sue for infringement for the violation of an aerospace, computer or computer software patent. We would certainly assert that it violated our Nation's rights under TRIPS. The pending Amendment offers the same kind of flawed and illegal approach. In the case of a TRIPS violation the penalty could, after adjudication in the WHO, result in the imposition of retaliatory tariffs on American exports.

Mr. President, I share these concerns. I urge my colleagues to consider the views of BIO, the AIPLA, and David Beier, as well as the other organizations cited by Senator FRIST last week, before we rush to adopt this virtually unvetted, far-reaching language that has not been the subject of a hearing in any committee of Congress. Not the HELP Committee, not the Judiciary Committee, not the Commerce Committee, and not the Finance Committee which has jurisdiction over matters of international trade.

But more important than any payments that the Treasury might be compelled to pay due to judgments related to the Takings Clause or than any retaliatory trade sanctions that the WHO may impose on the United States down the road, we need to consider what the public health consequences might be if we unjustifiably lower protections on pharmaceutical patents.

Don't get me wrong. I am in favor of fierce price competition in the pharmaceutical marketplace. I favor not just less expensive general drugs today, but also better breakthrough drugs tomorrow. We need to keep in mind the relationship between public health and intellectual property. As David Beier has observed with respect to this linkage and the threat of this bill:

In the last 50 years there have been dramatic improvements in life expectancy and better health care outcomes, in pertinent part, because of new drugs and therapies. These advances have occurred because the United States, unlike other nations, has used a strong patent system to help create a balanced set of incentives. That system of incentives for innovation is at risk, if as proposed in the pending legislation, the investment backed and settled property rights in patents are retroactively taken away.

In short, while better in some key respects than McCain-Schumer, I am afraid that the HELP Committee-reported bill goes too far with respect to the 30-month stay. As I testified before the HELP Committee in May, if the problems we are trying to solve are the multiple use of 30-month stays and 11th hour-issued patents that unfairly trigger the stay, it seems to me that a more appropriate—and more narrowly-tailored—legislative response might be a rule that allows one stay, and one stay only.

Further, it might be appropriate to restrict the use of the sole stay only with respect to those patents listed in the FDA Orange Book at the time when a particular generic drug application is submitted. I will be interested if such a rule satisfies the problems that the FTC finds with respect to abuses of the 30-month stay and how the FTC, FDA, DOJ and other experts and interested parties think about this perspective.

I am open to other alternatives as more information becomes available and more discussion takes place among interested parties.

For now at least, I am forced to conclude that this new NDA-plus 30-day rule coupled with the file-it-or-lose-it and sue-on-it-or-lose-it provisions and the new private right of action amounts to legislative overkill that creates a host of new problems.

In contrast to this over-correction with regard to the 30-month stay, I am concerned that the Edwards-Collins HELP Committee Substitute under-corrects in fixing the 180-day marketing exclusivity issue.

Perhaps no single provision of the 1984 law has caused so much controversy as the 180-day marketing exclusivity rule.

As I explained last week, the statute contains this incentive to encourage challenges that help test the validity of pioneer drug patents and to encourage the development of non-patent infringing ways to produce generic drugs. The policy motivation behind the 180-day rule is to benefit consumers by earlier entry of cost-saving generic products onto the market in situations where patents were invalid or could be legally circumnavigated.

For many years as we intended and envisioned FDA awarded this 180-day exclusivity only to a generic drug applicant that was successful in patent litigation against the pioneer firm. In 1997, FDA's longstanding successful defense requirement was struck down by the D.C. Circuit Court of Appeals in the case of Mova Pharma v. Shalala.

The next year, the D.C. Circuit issued its opinion in Purepac Pharm v. Shalala which upheld FDA's new system of granting the 180-day exclusivity to the first filer of a generic drug application even if the pioneer firm did not sue for patent infringement. Also in 1998, the Fourth Circuit Court of Appeals held in Granutec v. Shalala that a court decision with respect to a second or third filer could trigger the exclusivity period of a first filer.

Taken together, these decisions, which strictly construed the statutory language, awarded the exclusivity to the first filer of a generic drug application. As a co-author of the legislation, I will be the first to concede that we drafters of the 1984 law came up short in this area because we were attempting to reward the first successful challenger, not the first to file papers with the FDA.

Once the successful defense requirement was struck down, the mismatch between first filers of generic drug applications and the generic drug firms actually litigating the patents resulted in a number of controversial contractual arrangements in which generic firms in the first-to-file blocking position were paid by pioneer firms not to go to market. These agreements prevented the 180-day marketing exclusivity clock from ever starting, and the statute prevented FDA from approving second and subsequent filers from going to market.

Here is how my good friend, Bill Haddad, an astute political analyst, generic drug manufacturer, gifted writer, incorrigible liberal, and participant in

the 1984 negotiations recalled the intent of the 180-day marketing exclusivity provision:

There was never any doubt that the goal .. was to bring generics to the market earlier using the route of legal challenge with a reward to be paid to the entrepreneur with the courage and facts to successfully challenge.

It was and is very clear that the law was not designed to allow deals between brand and generic companies to delay competition.

Unfortunately, the string of court decisions that interpreted these imprecisely drafted statutory clauses has resulted in a wholly unintended result.

As David Balto, a former senior official at the FTC, has described the problem:

The 180-day exclusivity provision appears to have led to strategic conduct that has delayed and not fostered the competitive process.

Mr. Balto assessed:

The competitive concern is that the 180-day exclusivity provision can be used strategically by a patent holder to prolong its market power in ways that go beyond the intent of the patent laws and the Hatch-Waxman Act by delaying generic entry for a substantial period.

He is right. He is absolutely right.

This wholly unintended dynamic has properly brought intense antitrust scrutiny. As a matter of fact, in May of 2001, the Judiciary Committee examined the antitrust implications of pharmaceutical patent settlements inspired by the 180-day rule.

The Federal Trade Commission has been very active in this area. The FTC has brought and settled three of these cases in which brand name companies pay generic firms not to compete. At this point I will not go into the details of the consent decrees in the Abbott—Geneva case, the Hoescht—Andrx agreement, and the FTC's settlement with American Home Products. FTC Chairman Tim Muris provided a great deal of information in his testimony before the Senate Commerce Committee in April.

The FTC is doing the right thing in taking enforcement actions against those who enter into anti-competitive agreements that violate our Nation's antitrust laws. Probably in no small part due to the FTC's vigorous enforcement under the existing antitrust laws and the development of Senator LEAHY's Bill, The Drug Competition Act, S. 754, I understand that no more of these type of anti-competitive agreements have been initiated for over two years. The FTC report will no doubt shed light on this area In a post-Enron, post-WorldCom environment, who would be so reckless as to enter into such an agreement? Nevertheless, I must also point out that the agency recently suffered a set back when the FTC administrative law judge issued a ruling in the on-going K-Dur litigation that reminds us that not all pharmaceutical patent settlements are per se violations of federal antitrust law.

In any event, the McCain-Schumer bill addressed the 180-day collusive reverse payments situation by adopting a so-called rolling exclusivity policy. If the eligible generic drug filer does not go to market within a specified time period, the 180-day exclusivity rolls to the next filer.

As I testified before the HELP Committee, I do not favor rolling exclusivity. Here's what Gary Buehler, then Acting Director of FDA's Office of Generic Drugs, said before the Judiciary Committee last year:

We believe that rolling exclusivity would actually be an impediment to generic competition in that the exclusivity would continue to bounce from the first to the second to the third if, somehow or other, the first was disqualified.

In 1999, FDA proposed a rule which embraced a use it or lose it policy whereby if the first eligible generic drug applicant did not promptly go to market, all other approved applicants could commence sales. Molly Boast, Director of the FTC Bureau of Competition, testified last May that, at the staff level, FTC supported FDA's use it or lose it proposal. If our goal is to maximize consumer savings after a patent has been defeated, I find it difficult to see how rolling exclusivity achieves this goal. I certainly prefer FDA's use it or lose it policy over the McCain-Schumer brand of rolling exclusivity.

In that regard, I must again commend the sponsors of the Edwards-Collins Substitute for rejecting the McCain-Schumer rolling exclusivity policy in favor of what Senator EDWARDS calls modified use-it-or-lose-it. Having said that, I was alarmed to learn that during mark-up Senator EDWARDS responded to a question by stating it was conceivable that his modified use-it-or-lose-it language might actually roll indefinitely. This disturbs me. Every time the exclusivity would roll to another drug firm, consumers will be further away from the day when multi-firm generic price competition can begin in the marketplace.

Frankly, I am not certain that I completely understand how the forfeiture language in Section 5 of the bill works. I do not think I am alone in this confusion. At some point, I would like to engage in a colloquy with the bill managers to ask some questions designed to clarify precisely how this provision works.

Let me say that if the bill reinstates the successful defense requirement and gives awards to the successful challenger so long as the firm goes to market in a timely fashion, I am supportive of the general concept. But I must say that I think that there are some real advantages to Senator GREGG's simple and straight-forward policy of more closely following FDA's old-fashioned use-it-or-lose-it proposal.

As I stated earlier, I am generally sympathetic to the concerns of generic drug firms that any exclusivity awarded should be measured from the time of an appellate court decision. But this principle may not hold up if any form of rolling exclusivity is adopted or if we have multiple patents and multiple challengers, some of whom are attacking on invalidity and some of whom or attacking on non-infringement.

I must say I am troubled by the provision of the bill that appears to grant each generic firm that qualifies for the benefit of the 18-month marketing exclusivity incentive a 30-month period to secure FDA approval, measured from the from the time of the filing of the generic drug application.

Let's say that the first firm eligible to take advantage of the 180-day benefit drops out for some reason. Assume also that the next firm eligible under the terms of Section 5 is in the midst of, for example, a negative good manufacturing inspection and can't go to market, but has say 14 months remaining on the 30-month clock. It would hardly seem like an appropriate outcome if, for example, the next firm eligible on the list already has satisfied all of the FDA requirements and has received tentative final approval, but must wait until the 30-month clock runs out.

I hope that the proponents of the substitute amendment will help us all understand just how Section 5 is intended to work. It is difficult for me to see why we should adopt a policy whereby the balance of the 30-month period described in Section 5(a)(2)''(D)(i)(III)(dd)'' on page 44 of the bill, could conceivably be greater than the 180-days of marketing exclusivity. Upon default of the first qualified applicant, why should we wait for a second eligible drug firm to obtain FDA approval when there may be a third, fourth, or fifth applicant in line with FDA approval ready to go?

I hope the sponsors of the legislation are not locked into their so-called modified use it or lose it policy, because I think it would be wise for Congress to step back and reassess the wisdom of retaining the 180-day marketing exclusivity provision in essentially the same form as enacted in 1984. Why not take this opportunity to re-think the 180-day rule?

At one extreme are those who have suggested that the 180-day marketing exclusivity provision may not even be necessary at all. Liz Dickinson, a top-notch career attorney at FDA, has asked: ''I suggest we look at whether 180-day exclusivity is even necessary, and I know that there is this idea that it is an incentive to take the risk. I say the facts speak otherwise. If you have a second, third, fourth, fifth generic in line for the same blockbuster drug . . . undertaking the risk of litigation without the hope of exclusivity, is that exclusivity even necessary?''

Ms. Dickinson went on to make the following observation with respect to the 180- day rule, ''We have got a provision that is supposed to encourage competition by delaying competition. It has got a built in contradiction, and that contradiction . . . is bringing down part of the statute.''

At the Judiciary Committee hearing on May 24, 2001, Gary Buehler, FDA's top official in the Office of Generic Drugs agreed with his colleague's assessment:

. . . we often have the second, third, fourth, fifth challengers to the same patent, oftentimes when the challengers actually realize that they are not the first and there is no hope for them to get the 180-day exclusivity. So with that in mind, I would agree with Liz's statement that generic firms will continue to challenge patents. Whether the 180-day exclusivity is a necessary reward for that challenge is unknown, but it does not appear that it is.

Keep in mind that both of these FDA officials are career civil servants with no political axe to grind. I personally favor retaining some financial incentive to encourage patent challenges, but in light of this testimony and other factors, I do not think we need to be wedded to the current form of the 180-day exclusivity benefit.

Frankly, I am surprised that neither the McCain-Schumer bill, nor the Kennedy mark, nor the Edwards-Collins amendment, proposed any changes in the current regime in light of the views of the FDA officials among other considerations. But, of course, neither the FDA nor FTC nor any representatives from the Administration testified at the HELP Committee hearing on May 8th.

Senator SCHUMER argues that the task of this legislation is to curb excesses in order to return to the original balance in the 1984 law. But what if conditions have changed and the original balance of the 1984 need to be reassessed? Or what if there was an area that we didn't get right the first time?

For example, consider how Paragraph IV litigation treats patent invalidity and patent non-infringement challenges identically under the 180-day marketing exclusivity rule. But invalidity and non-infringement are two very different theories of the case. Here is what Al Engelberg, a smart and tenacious attorney who specialized in attacking drug patents on behalf of generic drug firm clients, has said about this difference:

In cases involving an assertion of non-infringement, an adjudication in favor of one challenger is of no immediate benefit to any other challenger and does not lead to multi-source competition. Each case involving non-infringement is decided on the specific facts related to that challenger's product and provides no direct benefit to any other challenger. In contrast, a judgment of patent invalidity or enforceability creates an estoppel against any subsequent attempt to enforce the patent against any party. The drafters of the 180-day exclusivity provision failed to consider this important distinction.

As one of the drafters, I must accept my share of responsibility for not fully appreciating the implications of this distinction. I think what Mr. ENGELberg is pointing out that the 180-day rule acts as only a floor in non-infringement cases. As long as any patents stand, a particular non-infringer's marketing exclusivity can extend well beyond 180 days until such time as another non-infringer comes along. Conversely, doesn't the 180-day floor work to the detriment of consumers whenever it acts to block market entry of a second non-infringer during the 180-day period ? Why shouldn't a second or third non-infringer be granted immediate access to the market as would occur in any other industry? Consumers would reap immediate benefits for price competition.

I hope that my colleagues working on the bill will consider the distinction between invalidity and non-infringement as this debate continues over the next week. While I am of the mind to retain a strong financial incentive to encourage vigorous patent challenges by generic drug firms, we must ask why identical rewards are granted for successful invalidity and non-infringement claims. I welcome the comments and suggestions of my colleagues and other interested parties on this matter

Frankly, I think we need more public discussion and debate about the wisdom of retaining—lock, stock, and barrel—the old 180-day exclusivity award.

For example, even if we adopt the modified use it or lose it approach of the HELP Committee bill and the first qualified generic manufacturer cannot, or will not, commence marketing and the exclusivity moves to the next qualified applicant, why should the second manufacturer get the full 180-days? Why not 90 days? Why not 60 days?

After all, once the exclusivity begins to roll and roll and we move away from granting the marketing exclusivity to the successful generic litigant and Americans always prefer actual winners—we may end up with a mere second filer—and since when does our society grant such lucrative rewards to someone who merely files some papers?

And what is so sacrosanct about 180-days in the first place? It is my information that in 1984 the number-one selling drug in the United States was Tagamet, with domestic sales of about $500 million. I am told that today the cholesterol-controlling medicine, Lipitor, has domestic U.S. sales of over $5 billion. Lipitor sales are 10-times higher in the U.S. than domestic Tagamet sales were in 1984. I understand that worldwide sales of Lipitor are about $7 billion.

Even adjusting for inflation, it seems clear that 180-days of marketing exclusivity is worth more, and a lot more, today than it was worth in 1984.

What might 180-days of marketing exclusivity for today's blockbuster drugs be worth in profits to the generic firm holding the 180-day marketing exclusivity rights?

Let's be frank about what is going on here: Retention of the 180-day marketing exclusivity provision is one of those areas in which both the generic sector and the R&D sector have something of a mutual interest. And when all is said and done, I think that the joint interest of the generics and the pioneer firms is not in perfect alignment with the interests of consumers.

This is so because during the 180-day time frame, when there is only one generic competitor, the pioneer firm does not take anywhere near the hit on market share and profits that occurs when multiple generic firms enter the market. Similarly, the first generic on the market is under no pressure to cut the price anywhere near as much as when there is competition from multiple generic firms.

The report, Drug Trend: 2001, published by Express Scripts, notes this dynamic:

The AWP [average wholesale price] for the first generic is usually about 10 percent below the brand. After the six month exclusivity granted to the first generic manufacturer, the price paid . . . for the generic quickly falls, often by 40 percent or more, as multiple manufacturers of the same generic product compete for market share. It seems likely that the value of the 180-day marketing exclusivity award today may be worth much more that it was back in 1984—perhaps several hundred million dollars more per blockbuster drug.

Given the dramatic increase in drug sales for today's blockbuster products, it does not seem far-fetched to project that the 180-marketing exclusivity reward can amount to hundreds of millions of dollars—and perhaps over one billion dollars—in profits to the fortunate generic drug manufacturer. I am all for assuring that there are sufficient incentives to ensure patent challenges, but isn't there a limit beyond which we should direct these excess profits back to consumers?

Would we rather see 25 percent to 40 percent of that money in the hands of the trial attorneys who brought the case? Or, would we rather see at least some of those funds earmarked for attorneys' fees, be channeled to help citizens lacking access to prescription drugs?

Shouldn't we get the facts concerning the change in value of the 180-day marketing exclusivity today compared to 1984 and make any appropriate adjustment to this incentive? We don't want to set the incentive so low as to discourage challenges to non-blockbuster patents.

My purpose in rasing these points is to get an indication from the sponsors of this legislation and other interested parties, such as patient advocacy organization, state Medicaid agencies, and insurers, whether there is interest in discussing the advisability of passing on more of the value associated with the marketing exclusivity to consumers if it appears it is fair to do so.

If there is interest, I would be willing to help fashion an appropriate amendment. It seems to me that we need to provide enough of an incentive to assure vigorous patent challenges, but we should give away no more exclusivity than is necessary. Every day of marketing exclusivity awarded to a generic firm comes at the expense of consumers.

I think we can and should explore this area further.

Let us not too quickly and too blindly retain the basic structure of reward

under the 180-day marketing exclusivity provision. Before we change the law, let us have a serious re-examination of whether to retain the 180-day marketing exclusivity in its current form both in terms of the length of the exclusivity period and whether the rewards for successful invalidity and non-infringement challenges should be treated identically.

I urge my colleagues, as well as consumer organizations and pharmaceutical purchasers such as insurers and self-insured businesses to reflect upon what I have said on this subject today.

This is an area in which I think we would be wise to reject Senator SCHUMER's argument that all we are doing with this legislation is restoring the integrity of the old Hatch-Waxman Act. But why should we be governed by the world of 1984 when, for example, the best selling drugs in this country have increased sales by a factor of 10? Why should the value of the marketing exclusivity reward increase in direct proportion?

On a number of occasions, I have commended Senator SCHUMER and Senator MCCAIN for moving their legislation forward, even if the bill that came out of the HELP Committee does not resemble very closely their bill, and I still have problems with the floor vehicle as I have laid out in some detail. I commend them again today.

I hope to return to the floor before this debate ends to offer a few suggestions for a more comprehensive approach to reforming the Drug Price Competition and Patent Term Restoration Act.

This in no way minimizes the importance of he matters that are the subject of the pending legislation, because they are important areas. I do not believe, however, that these are the most important issues we can address.

Rather than focusing on how best to bring the law back to the old days of 1984, as Senator SCHUMER suggests, I want to discuss ways to modify the law to help usher in a new era of drug discovery while, at the same time, increasing patient access to the latest medicines.

Mr. President, I yield the floor.

ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that following disposition of H.R. 5121, the legislative branch appropriations bill, Rockefeller amendment No. 4316 be agreed to, and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that immediately following action on adoption of the Rockefeller amendment, the Senate proceed to the consideration of the conference report to accompany H.R. 3763, the Corporate and Auditing Accountability, Responsibility, and Transparency Act of 2002, and that it be considered under the following limitations: That there be a time limitation of 2 hours equally divided and controlled between the chair and ranking member of the committee or their designees; that upon the use or yielding back of time, without further intervening action or debate, the Senate proceed to vote on adoption of the conference report.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

LEGISLATIVE BRANCH APPROPRIATIONS ACT, 2003—Resumed

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to vote on H.R. 5121, the Legislative Branch Appropriations Act.

Mr. REID. Mr. President, I ask for the yeas and nays on the legislative branch appropriations bill.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the conference report. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The PRESIDING OFFICER (Mrs. CARNAHAN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 85, nays 14, as follows:

[Rollcall Vote No. 191 Leg.]

YEAS —- 85

Akaka	Durbin	McConnell
Allen	Edwards	Mikulski
Baucus	Feingold	Miller
Bennett	Feinstein	Murkowski
Biden	Frist	Murray
Bingaman	Graham	Nelson (FL)
Bond	Grassley	Nelson (NE)
Boxer	Gregg	Nickles
Breaux	Hagel	Reed
Burns	Harkin	Reid
Byrd	Hatch	Rockefeller
Campbell	Hollings	Santorum
Cantwell	Hutchinson	Sarbanes
Carnahan	Hutchison	Schumer
Carper	Inouye	Sessions
Chafee	Jeffords	Shelby
Cleland	Johnson	Smith (OR)
Clinton	Kennedy	Snowe
Cochran	Kerry	Specter
Collins	Kohl	Stabenow
Corzine	Kyl	Stevens
Craig	Landrieu	Thompson
Crapo	Leahy	Thurmond
Daschle	Levin	Torricelli
Dayton	Lieberman	Warner
DeWine	Lincoln	Wellstone
Dodd	Lott	Wyden
Domenici	Lugar	
Dorgan	McCain	

NAYS —- 14

Allard	Ensign	Roberts
Bayh	Enzi	Smith (NH)
Brownback	Fitzgerald	Thomas
Bunning	Gramm	Voinovich
Conrad	Inhofe	

NOT VOTING—1

Helms

The bill (H.R. 5121) was passed, as follows:

(The bill will be printed in a future edition of the RECORD.)

Mr. DURBIN. Madam President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendments and requests a conference with the House on the disagreeing votes of the two Houses.

The PRESIDING OFFICER appointed Mr. DURBIN, Mr. JOHNSON, Mr. REED of Rhode Island, Mr. BYRD, Mr. BENNETT, Mr. STEVENS, and Mr. COCHRAN conferees on the part of the Senate.

GREATER ACCESS TO AFFORDABLE PHARMACEUTICALS ACT OF 2001—Continued

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 812. The Rockefeller amendment No. 4316 is agreed to, and the motion to reconsider that vote is laid on the table.

The amendment (No. 4316) was agreed to.

SARBANES-OXLEY ACT OF 2002—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of the conference report to acompany H.R. 3763, which the clerk will report.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3763), to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws, and for other purposes, having met, have agreed that the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, and the Senate agree to the same, signed by a majority of the conferees on the part of both Houses.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The report is printed in the House proceedings of the RECORD of July 24, 2002.)

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Madam President, I suggest the absence of a quorum and ask that the time not be charged against either manager.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SARBANES. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SARBANES. Madam President, parliamentary inquiry of the Chair: What is pending before the Senate?

The PRESIDING OFFICER. The debate on the conference report is limited to 2 hours equally divided.

Mr. SARBANES. So there is 1 hour on each side.

The PRESIDING OFFICER. The Senator is correct.

Mr. SARBANES. Madam President, I yield myself 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SARBANES. Madam President, I am very pleased that we are now considering the conference report on the Public Company Accounting Reform and Investor Protection Act of 2002. The Senate approved this legislation on July 15 on a 97–0 vote. Conferees were named promptly both here and in the House, and the conference committee immediately went to work.

Agreement was reached yesterday in the early evening, about 7 o'clock, by the conference committee, and the House took up the conference report this morning and acted on it earlier in the day. The vote, I believe, was 422—3.

The conference report has now come over to us, and obviously, under our procedures, it is our turn to proceed to consider it.

This legislation establishes a carefully constructed statutory framework to deal with the numerous conflicts of interest that in recent years have undermined the integrity of our capital markets and betrayed the trust of millions of investors.

I say to my colleagues that in every one of its central provisions, the conference report closely tracks or parallels the provisions in the Senate bill for which, as I indicated earlier, all the Members present at the time, 97 of us, voted only a short time ago.

This legislation establishes a strong independent accounting oversight board, thereby bringing to an end the system of self-regulation in the accounting profession which, regrettably, has not only failed to protect investors, as we have seen in recent months, but which has in effect abused the confidence in the markets, whose integrity investors have taken almost as an article of faith.

This legislation reflects the extraordinary efforts of many colleagues on both sides of the Capitol. I want especially to recognize and express my deep gratitude to Senators DODD and CORZINE who early on introduced legislation that in many respects serves as the basis for titles 1 and 2 of this legislation.

On the House side, Congressman LAFALCE introduced comprehensive legislation on which we drew.

I also wish to acknowledge the many important contributions that my Republican colleague, Senator ENZI, made at every step in the process. Senator ENZI had legislation of his own, but in addition we worked very closely in the course of developing this legislation. Again and again I was struck by the thoughtfulness and reasonableness of his proposals for improving in the legislation. While in the end not all of them were included in the legislation, a significant number are, and I thank him very much for all his contributions.

Before addressing the major provisions of the legislation, let me make very clear that it applies exclusively to public companies—that is, to companies registered with the Securities and Exchange Commission. It is not applicable to provide companies, who make up the vast majority of companies across the country.

This legislation prohibits accounting firms from providing certain specified consulting services if they are also the auditors of the company. In our considered judgment, there are certain consulting services which inherently carry with them significant conflicts of interest. Auditors, in effect, find themselves in the position of auditing their own work. They may be acting as management of the company, for instance, on personnel matters when, as the outside auditor, they were supposed to be standing one step removed from the company as the outside auditor. This is the reasoning behind the prohibition.

What has happened in recent years is that the fees earned from the consulting work have dwarfed the fees earned from the auditors, which inevitably leads to concerns that punches may be pulled on the audit to accommodate the significant and remunerative involvement on the consulting side. Certain enumerated consulting practices are therefore not allowed, with the exception that a case-by-case exemption can be obtained from the oversight board that this legislation establishes.

The auditor can engage in the balance of consulting services with the pre-approval of the audit committee of the corporation. And of course an auditor can engage in whatever consulting services the firm and the corporation agree upon so long as the firm is not also acting as the corporation's auditor.

The bill sets significantly higher standards for corporate responsibility governance. It requires public companies to have independent audit committees and also enhances the role of the audit committee, which will have responsibility for hiring and firing the auditors and setting their compensation.

The legislation requires full and prompt disclosure of stock sales by company executives. Senator CARNAHAN added an important provision to the bill, requiring electronic filing with respect to such sales. That requirement would take effect in a year's time, to allow time for the necessary systems to be put in place; once in place it will assure prompt and accurate disclosure of these very significant transactions.

The legislation places limits on loans by corporations to their executive officers. It sets certain requirements for disclosure with respect to special purpose entities, which were used by some corporations that have run into such serious difficulty in recent months. It seeks to address the statement of pro forma earnings, in order to assure a more complete and accurate picture of a public company's financial position.

It also addresses the conflicts of interests that arise for stock analysts to whom investors look for impartial research-based advice about stocks. Unfortunately, many of these analysts are under pressure to promote stocks in which their broker-dealer firms may have an investment banking interest; on the one hand they are supposed to give unbiased advice to potential purchasers of stock, whether to buy or sell, but at the same time the firm of which they are a part is interested in developing a business relationship with the company on which the analyst is passing judgment. It has been sobering to discover that analysts have been formally recommending certain stocks to the investing public, while at the same time discussing them contemptuously among themselves. We have had too many demonstrations of this occurring.

The legislation includes provisions to protect analysts against retaliation, in cases where a negative recommendation may invite retaliation. Furthermore, the bill authorizes significant increases in funding for the Securities and Exchange Commission, which for the first time in many years will give it something close to the funding resources it needs.

There are also extensive criminal penalties contained in this legislation. These were initially included in legislation reported by the Judiciary Committee, which Senator LEAHY offered as an amendment to the bill. The House then passed its own bill with respect to criminal penalties, a separate standing bill, which in many instances doubled or even tripled the penalties in the Leahy proposal as it came to the floor, and the Leahy proposals were further supplemented by an amendment from Senators BIDEN and HATCH and another from Senator LOTT.

The PRESIDING OFFICER. The Senator has consumed 10 minutes.

Mr. SARBANES. I yield myself 4 additional minutes.

The PRESIDING OFFICER. The Senator has that right.

Mr. SARBANES. These provisions, among other things, require the CEOs and CFOs to certify their company's financial statements under penalty of potentially severe punishments.

We provide a $776 million authorization for the SEC. I want to spend a minute on this point, because it is very important. The Senate Appropriations Committee is now working on an appropriation that would contain $750 million for the SEC. It is urgent that we provide adequate funding for the Commission, whose responsibilities have expanded as the volume of market activity has grown, but whose funding has lagged. Clearly, the Commission must have the resources necessary to ensure a decisive and expeditious response to the scandals we have seen in

recent months, and to minimize the likelihood that we will see others in the future.

I must underscore this point. The Commission has been underfunded, and the result has been understaffing, high staff turnover and low morale as the Commission seeks to carry out its work. The SEC must be in a position to address immediately the problems of inadequate staff resources and inadequate pay.

At the moment, the SEC cannot offer its attorneys and accountants the same level of salary and benefits that their counterparts receive at the five Federal bank regulatory agencies. Talented and dedicated staff attorneys and accountants can increase their compensation by as much as one-third simply by moving to another agency. This is an intolerable situation. Pay parity has been authorized and now must be funded; this legislation specifically provide the necessary funding.

In addition, the authorization provides funding that will enable the Commission to upgrade its technical capacities, its computer systems, and it provides significant resources so that the Commission can augment its staff of attorneys, accountants and examiners at a time when they are needed to address a very heavy workload burden.

As an aside, I mention that this morning the committee reported to the Senate four nominees to bring the Securities and Exchange Commission to its full complement of five members. I very much hope we will be able to approve them next week so that they will be able to take their positions before the August recess. If we do, the Commission will be at full strength. They will all be in place and ready to do the job, and I think that is highly desirable.

In closing, let me say that I believe this conference report reflects our best efforts to deal with issues which we know to be numerous and complex. Throughout the process, we have worked together carefully on these issues. We have sought advice from the most distinguished and experienced practitioners in the field. We held 10 hearings in March with some of the very best experts in the country as our witnesses. We have consulted extensively, and I hope my colleagues will agree in good faith and across party lines. Our vision has been broad, our purpose steady. I think our approach has been reasonable.

We will send to the President legislation establishing a solid statutory framework for the reforms we know are urgently needed.

Our markets have benefited beyond measure from the statutory framework that created the SEC nearly 70 years ago. Indeed, I think we have had a tendency to take that for granted. Those markets have been a very significant economic asset for the United States, and an integral part of our economic strength. This legislation will serve to complement and reinforce that framework, which has served us well, and I believe it will stand the test of time.

Our markets, which have the reputation of being the fairest, the most efficient, the most transparent in the world, have suffered greatly in recent times, so much so that they seem to have lost the confidence of our investors. It is our purpose, with this legislation and through other actions that will have to be taken by the regulatory agencies and by the private sector, to see that once again our capital markets deserve the enviable reputation for fairness, efficiency, and transparency that they have enjoyed through the years.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, I yield myself such time as I may consume.

I want to begin with some thankyous and congratulations. First, I want to congratulate Senator SARBANES on this bill, and I want to make note that in a very difficult period, where so many were trying to point the finger of blame, when it seemed almost every day that people were clamoring to make the strongest statement they could make to get the sound bite on television, Senator SARBANES could have taken that same route in the Banking Committee. We are the committee that has jurisdiction over the issues that had been at the very heart of our recent concerns in the capital markets.

However, Senator SARBANES did not take that route. I congratulate him. He not only brought good reflection on himself, but he helped raise the esteem that the Banking Committee is held in and reflected well on the Senate. We had hearings but we were focusing on what could be done to fix the problem. As a result, those hearings were the most productive that were held. They contributed to bringing us to where we are.

Now let me make it clear, from the very beginning there has been a broad consensus, and a very deep consensus, on 90 percent of the issues in this bill. One of my frustrations in this debate—and when you are debating something as high profile as this is, there are frustrations. I am not complaining—as my wife says whenever I complain about this job, not only did nobody force you to take it, but a lot of good people worked hard to keep you from getting it—I am not complaining, but part of our problem has been that the media has wanted to present this as a debate that had to do with how tough people were being, to the exclusion, often, in my opinion, of how reasonable we need to be.

We have before the Senate a bill that is clearly an improvement over the status quo. I don't care how disappointed you are in any one provision—and on several provisions I am very disappointed. No matter how disappointed a Member is, this is an improvement over the status quo, and for two reasons. One is obvious. That is, we needed stiffer criminal penalties. And, second, we needed to create an independently funded and an independently operating accounting oversight board so that we could deal with ethics questions in a framework that will promote high ethical standards, in the framework of independence. In addition, we desperately needed to have an independently funded FASB.

I would just say as an aside, Madam President, over the years I have agreed with FASB in some of their decisions; I have disagreed with FASB on some of their decisions. However, I am proud to be able to say today I have never taken the position that Congress ought to override FASB. As incomprehensible as some of their rulings have been to my way of thinking, having Congress vote on accounting standards is a very dangerous thing.

Some of our colleagues want to vote on the whole issue of expensing stock options. Wherever you come down on that issue, having Congress vote on accounting standards is very dangerous, very counterproductive. I hope that will not happen. Certainly, I am not going to vote to impose accounting standards on this board. We want FASB to set accounting standards. We want to be sure they have the independence that is necessary to allow them to do it.

In those areas there has never been a disagreement on this bill. The disagreements that have occurred have had to do with the perception of individual Members as to what was practical, what was workable, what was desirable. The one view I have always subscribed to, and I would have to say given my period of service in public life I am more convinced of it than ever, is that Thomas Jefferson was right when he said good men—he would say good people today, of course—good men with the same information are prone to have different opinions.

There is a natural tendency in the human mind to think, if people disagree with you, that either, A, they don't know what they are talking about; or B, they don't have good intentions. I subscribe to the Jefferson thesis.

The areas where I disagree with the bill are pretty straightforward. First of all, I believe there is a very real problem in auditor independence. If I were a member of this new accounting oversight board that we are going to put into place and I had to vote on the nine prohibited areas that are written into law in the bill, I would want to study them in detail. I might very well support all nine of them. I do not believe they should be written into law.

The advantages of letting the board set these standards—it seems to me that there are three:

No. 1, the board is going to have more time and more expertise than we have and is likely to do a better job.

No. 2, if we make a mistake and we write it into law, it is hard to fix things that are written into law. As Alan Greenspan has said, if Glass-Steagall, Depression-era banking legislation, had been a regulation, it clearly would have been changed by the 1950s. We did not change it until 1999. It took a long time to change it.

Finally, and probably of greatest importance, there is a natural tendency when we are talking about the problem in an era where we are all reading about Enron and WorldCom and the huge companies, to forget this law will apply to 16,254 companies. Many of these companies are quite small. One of the advantages of allowing the accounting oversight board to set out prohibitions on auditors performing other services in regulation, instead of prescribing them in law, is that the board can find a system whereby they can recognize what is practical in dealing with smaller companies and how that might differ from what is practical for General Motors.

An example that has come to my mind is one where I am operating a small public company, stock traded on an exchange or on Nasdaq, and I employ an accounting firm that has a CPA who basically does my auditing. He is in Houston. I am trying to hire a new bookkeeper in my company. I have three candidates. When my auditor is in town auditing my books, I say: I have these three candidates. I majored in physics in college, and I don't know anything about accounting. Could you interview these three bookkeepers and tell me who you think would be best?

Under this bill, that would be illegal. That would be providing a personnel service. It is prohibited for my auditor to provide that service for me as well.

For General Motors, should your auditor be providing a personnel service? My guess is they probably should not. But for this small company in College Station, Texas, what this prohibition ultimately will do is force them to do one of three things: In all probability, they will hire the bookkeeper without ever getting the advice of a CPA; No. 2, they can hire another CPA to interview these three candidates for a bookkeeper and pay them; No. 3, they can file for a waiver through the SEC and through the board. Each option is a worse choice from those available to such a small company today, and a worse choice for its shareholders.

The bill allows a waiver on an individual company by company basis. I rejoice that is the case. I personally believe we should have given the board, with the agreement of the SEC, the ability to grant blanket waivers based on the circumstances of classes of individual companies.

For example, if you have already granted 1,000 waivers where companies have applied for a waiver for a certain requirement based on their size, their location, practicality, the cost, whatever, at that point shouldn't the board be able to say: We have established this principle, and if your company meets these conditions, you are granted the waiver? Then, all they have to do is prove they meet the conditions.

My concern—and who knows, maybe this will be true, maybe it will not. The problem is we are legislating. We don't know. We can't look into the future. My concern is that by not granting them the ability to provide blanket waivers we are going to force a lot of smaller companies to hire lawyers and lobbyists to come to Washington to petition the SEC and the board. My concern is that this is going to use up their time and use up the resources of companies.

There is another side of this story and that is the concern that blanket waivers could be used to get around the intent of the law. How do you deal with that? How do you find a happy balance? It is not an easy question. I would have to say I believe we have imposed a one-size-fits-all regimentation that is going to be difficult to deal with—not impossible to deal with, but I think it is going to be difficult.

Another problem I have is that we have in this bill an accounting oversight board. Its members are not elected officials. They are not appointed in the sense that they are not Government officials. They will have the ability to make decisions that will affect the livelihood of Americans who are in the accounting profession. They will literally have the ability to say to a CPA: We are taking your license away and you can never practice again in providing accounting services to a publicly traded company.

Clearly, there are cases where that is justified. Clearly, there are cases where people ought to be fined and, clearly, there are cases where people ought to be put in prison. But I think when you are taking people's livelihoods, they ought to have an opportunity to appeal to the Federal district court where they live.

I think there ought to be a burden on them to make their case, and obviously the court is going to take into account that this board, that was duly constituted, made a decision. But I think that is an opportunity that people ought to have that they do not have under this bill.

I am also concerned about litigation. During the whole Clinton administration, there was only one bill where we overrode the President's veto, and that was a bill having to do with private securities litigation reform. We had a massive number of predatory strike suits where people filed lawsuits against companies. They almost always settled out of court. We had one law firm that filed the lion's share of the lawsuits. And the chief lawyer in that company said, in effect, ''It is wonderful to practice law where you don't have clients.''

That was a mistake when he said that, but he said it.

We took action to try to eliminate or minimize this abuse. In doing so, we codified a 1991 Supreme Court decision that addressed what happens if you think you have been wronged. We are not talking about criminal activity. We are not talking about SEC enforcement. We are not talking about the Justice Department. We are talking about civil disputes that people have. Under that law, in codifying what the 1991 Supreme Court decision said, we said that within a year after you believe you have been wronged, you have to file your lawsuit, and within 3 years after the event happens, you have to file your lawsuit.

One of the things this bill does, which I oppose, is it raises that to 2 years and 5 years, respectively. I would say that if there were evidence that people were not getting these lawsuits filed because of a lack of time, that under the circumstances I think that increasing the statute of limitations would have been justified. But as we have looked at the data, the mean average lawsuit is filed 11 days after the injury is discovered. Something like 90 percent of the lawsuits are filed in the first 6 months. It seems to me that this provision and other provisions of the bill that expand the ability of people to sue may have a positive effect in making people pay attention to their business, but we all know, based on our legal system, that it is going to be abused and that very heavy costs are going to be imposed on the private sector of the economy as litigation costs ultimately are added to the cost of the product that is produced and reduced from the stock value held by shareholders.

I could go on and on. There are other people who want to speak. We are under a time limit. But let me sum up.

I thought about this long and hard, and as I thought about this bill, I had to weigh, Does it do more good than harm? I have concluded that it does. It does less good than it could have done; it does more harm than it should have done—we could have corrected these things—but, quite frankly, in the environment we were in it was impossible. In the environment we were in, where everything was judged on some concept of being tough rather than on practicality and workability, it was impossible for us to come back and deal with these problems.

Finally, in the timeframe that we all faced in conference, we never really got around to discussing the practical kinds of things that do not seem important when you are writing law but seem very important 2 or 5 years later when you are implementing it.

Having said all that, I cannot stand up here and argue that this bill has worsened the status quo. This bill is better than the status quo for two reasons. No. 1, change needs to be made and criminal penalties need to be raised. These independent boards need to be established, and 90 percent of this bill, in my opinion, clearly represents a step in the right direction.

But, second—and this may sound like strange logic but I think it is important. I think to understand American government you have to understand it. The American people expect Congress to respond to a problem. We may not know the answer. We may not have perfect knowledge. But they expect us to try to do something about it. That in and of itself is an argument to which we should respond.

I would argue—being a conservative, as everyone engaged in this debate knows—I would argue we need to be careful. But in the end this bill is an improvement on the status quo. It could have been better. There are changes that could have been made that were not. But in the end, I cannot argue that this bill should not pass, should not become law. The President is going to sign the bill, and clearly he should.

I do believe we will have to come back after the fact and we will have to correct some of these issues. I think as time goes on we will see we may not have done enough in one area. Maybe we went overboard in another area. But the Congress will meet again, people will be paid to do this work, and I am confident that it will be done.

So let me conclude on this thought. I believe the marketplace has gone a long way toward solving this problem. I think the New York Stock Exchange action was excellent. Once again, they are proving that they are a great institution. As I have often said about the New York Stock Exchange, I feel as if I am standing on holy ground at the New York Stock Exchange.

Every boardroom is different from what it was before this crisis started. No one sitting on a board, corporate board or an audit committee, will ever be the same. No auditors will ever look at their task the way they did before all of this started, at least for a very long time. or at least for a very long time.

One of the advantages of having structure is when they forget, the structure won't forget. I totally agree with that. I think this represents a complement to it.

There is much in here I would have done differently. But in the end, I think this is a response that people can say the Government did hear, the Government did care, and Congress did try to fix it. I don't doubt that there are mistakes in here. I think I could name some, if asked to. But, on the whole, this is a response that was aimed at the problem. People went about it in a reasonable manner.

Certainly, the authors of this bill intended to do as good a job as they could do.

I again want to congratulate Senator SARBANES. I also want to thank him, looking back now at how quickly the conference went. I know people were unhappy when we had this period when the floor was tied up, and there were numerous amendments people wanted to add to the bill. But I think, given how the whole thing played out, it worked out from that point of view pretty much right.

If people on Wall Street are listening to the debate and trying to figure out whether they should be concerned about this bill, I think they can rightly feel that this bill could have been much worse. I think if people had wanted to be irresponsible, this is a bill on which they could have been irresponsible and almost anything would have passed on the floor of the Senate.

I think given where we are on this bill that it is a testament to the fact that our system works pretty well.

I yield the floor.

The PRESIDING OFFICER (Mr. EDWARDS). Who yields time?

Mr. GRAMM. Mr. President, I yield 12 minutes to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Thank you, Mr. President.

I am here today to speak in support of the conference report to the accounting reform bill. I will be encouraging all Senators to vote for the conference report.

This is earthshaking legislation that has been done with tremendous speed. It had to be earthshaking because we are trying to counteract the tremors from the volcanic action of the mountaintop being blown off such companies as Enron, WorldCom, Global Crossing, and others. Those collapses have set up a series of tremors across this country.

Congress is not the one to solve all the problems. But as Senator GRAMM just mentioned, we are expected to work at solving all of the problems. We have put in a huge effort on this bill, and it will make a difference.

While we have been working, the stock market has been going through some tremendous gyrations. I think some of those reactions in the stock market were to see how carefully we would consider and resolve this issue. I believe, the stock market was worried that we would overreact. The market watched to see if Congress would keep adding and adding things, until we destroyed the whole system. They can now see that did not happen—Congress acted responsibly. We took a long and tough look at the problem and reacted, but we did not overreact. At the same time corporations across the country have been making sure they did not have the kinds of problems brought to light in a few of these companies.

''Corporations'' should not be a bad word in this country. This country was built on business.

I always like to mention that it was primarily built on small business—small businesses that grew up, in many cases, but nevertheless ideas that started out as a small business.

We have to keep our focus on those small businesses, and make sure they are able to continue to operate in the climate that we have in the United States and under the laws that we pass.

I am pleased to say that the actions we took in this bill provide some assurance to small businesses and small accounting firms that they can continue to operate the way they have in the past.

We have given encouragement to the States not to run out and apply the same types of laws. I hope the States are paying attention because they will ruin a very good thing if they destroy small business. Keep the eye on small business, and we will continue to have big business.

Corporations have been checking what has been going on in their firms to a greater extent than they have ever before. Boards, CEOs, CFOs, and audit committees have been checking to see if they have the kinds of problems that brought down these other companies.

It is much like when there is a plane crash. Right after a plane crash is probably the safest time in the world to fly because everybody checks their equipment ever so much more carefully to make sure that the kind of defects that may have caused other problems will not happen to them. And the effect lasts for a long time afterwards.

Corporations have been checking their books. They have begun changing procedures. Some of the changes they have made have resulted in restatements. They have paid a price for doing restatements. But they have done the right thing by doing a restatement, and they should be recognized for that. I mentioned speed before. The Senate is not designed for speed. We started out slow. We held 10 hearings. We looked at the issues very carefully, everybody resolved in writing their own ideas.

One of the tough things about legislating is putting it down in writing. The concepts are so easy, but the details are so tough.

There are a number of people who drafted bills on this—both in the House and in the Senate. On this side, Senator GRAMM and I drafted a bill. Senator CORZINE and Senator DODD introduced a bill. Of course, Senator SARBANES had the overreaching bill, and I believe his benefited a little bit from having copies of both the House and Senate bills on which to build his bill. I compliment him for the way he took ideas from all of these different approaches.

Again, it shows the value of legislating by a wide variety of people. You get a wide variety of viewpoints, which actually provides some insights into areas that a person might not have thought about.

But, at any rate, we concluded the hearings, and we merged the bill. This came to committee the week before the Fourth of July. It passed out of committee in one day. It came to the floor of this body just 2 weeks ago. And now, it has already been conferenced, and come back to us for final passage. Part of that is a result of the atmosphere we are in, and the need for action. Timing can be everything on a bill. But part of it is because of the concentration of people who worked on this.

This legislation is a response to problems highlighted by the recent corporation failures of Enron, WorldCom, and others. It does send a clear signal to corporate America that executives can no longer abuse the trust their shareholders place in them without severe consequences.

This legislation builds a strong and independent board to oversee the accounting industry. It will eliminate the climate of self-regulation that has historically guided accounting.

However, I would like to make one point clear. I believe that, overall, accountants take their responsibilities very seriously. They did before, and they do now. We have the best system in the world. What we are doing with this is to maintain that we have the best system in the world. Most accountants are honest and hard working. They work for the benefit of the investors with probably the same percentage of exceptions as other professions.

This legislation will also provide for strong disciplinary action against executives who break the law. No longer will they be disciplined with a slap on the wrist. The bill recognizes that executives who destroy the dreams of investors by irresponsible and unethical behavior will be given the severe punishment they deserve.

I also want to again thank Senator SARBANES and Senator GRAMM for their leadership on this issue. They both have worked tirelessly the past few months to get this bill finished in a timely manner. I particularly appreciate some of the insights Senator GRAMM gave me as he worked on this bill in more detail than most people ever achieve. It is his standard, and he carried that out again this time, which did resolve a number of the problems. I want to congratulate Senator SARBANES, and thank him for the way he conducted the hearings. A lot of people do not realize that the Chairman of a committee usually gets to pick most of the witnesses, and the ranking member gets to pick a few of the witnesses.

As we went through these 10 hearings, I couldn't find any witnesses that I wouldn't have picked were I given the selection. There were some very qualified people who testified. Some of them were even accountants. I did appreciate that. I apologize for asking some questions of them but it was such a great opportunity for me. My staff noticed that when the camera focused in on the person giving the answer, the wedge of people behind them were all asleep.

So what we dealt with is not the kind of thing that Americans get really excited about. It is far too detailed for us to get too excited about it. For accountants, these kinds of discussions are almost like watching ESPN.

Senator SARBANES did continue to meet with me and other Members and continued to make changes that improved the bill. There was a wide variety of Senators who worked on this bill. I have mentioned Senators DODD and CORZINE and GRAMM. Senator EDWARDS worked with me on one provision that is in this bill to make sure that not only accountants, analysts, CEOs, CFOs, Boards and audit committees were addressed under this bill, but lawyers have some responsibility, too.

I find it very exciting we are going to make lawyers have a code of ethics when they are dealing with the Securities and Exchange Commission, and that they are going to have an obligation to report things when they find them. I know that causes some consternation among some attorneys, but I think it will make, overall, the same kind of improvements we are expecting from everybody else.

Senators ALLEN, GREGG, BAUCUS, GRASSLEY, and KENNEDY all worked on some provisions that we don't talk about too much; again, it is in the detail area, but it has to do with the blackout period when you are dealing with pension and other stock sales by executives. I know the intense hours it took to come up with a solution that would work. And if you have that many people agreeing on it, there is probably a good chance it will work.

Again, I congratulate all those people for their constraint in limiting their ideas to what needed to be done for this bill. A lot of ideas were floating around here on lots of things we can with corporations and executives that people want to have fixed, but this bill did maintain some real constraint to stay on topic.

I do believe the conference report is an improved bill from the one that passed the Senate. Again, I appreciate Senator SARBANES working with me to make some of the changes about which I spoke.

One change we made changes the implication that not all nonaudited services should be presumed illegal. The bill has been changed to clearly allow the audit committee to make that determination without the law implying that it is illegal.

In addition, he made some changes dealing with the testing of internal compliance. I believe the new language more clearly represents the true role of auditors. One of the problems we dealt with throughout this process is educating Members on exactly what the role of an auditor is. I believe the new language represents that realization, and I thank the chairman for making the change.

There is another important change in the provision dealing with corporate loans. The provision would still prohibit corporate executives from reaping millions of dollars in loans from their companies, but the new language also realizes that executives need to use things such as credit cards to conduct their business. So this section is a vast improvement.

Another item I would like to comment on is the understanding that insurance companies, many times, have audits they must file with their State regulators. It would be burdensome and expensive to require these companies to hire a separate auditing firm to perform this responsibility. That problem was also recognized, and the needed changes were made.

However, I also understand that due to the time constraints, a report will not be filed with the bill. I think this will pose a series of problems because we will not be defining what the authors actually intended with certain sections of the bill and allowing the same written discourse that there would be on the bill. I think this may especially cause problems with the extraordinary number of regulations that are going to have to be written to implement the bill.

As the ranking member of the subcommittee with jurisdiction over the Securities and Exchange Commission, I do intend to work closely with the Commission to ensure that the new regulations are consistent with what I see as congressional intent. I will work with others to make sure these regulations conform.

I ask the ranking member, could I have an additional 3 minutes?

Mr. GRAMM. Sure.

Mr. President, I yield an additional 3 minutes to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. I thank the Senator.

Mr. President, some of the issues that did not come up in this bill dealt with FASB. We did something marvelous for FASB. We made sure of its independence. One way we made sure of its independence, besides citing in the law, was to make sure FASB has independent funding. They will not have to come to Congress with a budget. And they will not have to go to corporate America for funding. They will get independent funding to be able to do the job they need to do. That will inhibit us from trying to change what they are doing in setting accounting standards.

I am pleased to state that we have taken a look at the things they are working on right now. They are working on four issues that are extremely important to make sure what happened with other companies will not happen again.

I have to tell you, in those four things they have listed as a priority, one of them is not stock options and what to do with them. They do need to address that, but I certainly hope that Congress does not decide that what we see as a problem does supersede other problems that may have caused collapses such as Enron's.

So I hope we will not get in a position of dictating now to FASB what they should be working on, and in what order, and to what degree, or, worse yet, just going ahead and passing accounting standards on our own.

With respect to section 302, the conference recognizes that results presented in financial statements often necessarily require accompanying disclosures in order to apprise investors of

the company's true financial condition and results of operations. The supplemental information contained in these additional disclosures increases transparency for investors. Accordingly, the relevant officers must certify that the financial statements together with the disclosures contained in the periodic report, taken as a whole, are appropriate and fairly represent, in all material respects, the operations and financial condition of the issuer.

I also believe the conferees contemplate that the Board will have discretion to contract or outsource certain tasks to be undertaken pursuant to this legislation and the regulations promulgated under the Act. The Board may outsource functions which can be done more efficiently by existing and established organization. An exercise of discretion in this manner does not absolve the Board of responsibility for the proper execution of the contracted or outsourced tasks.

I also believe that the Conferees expect that the Board and the standard setting body will deem investment companies registered under Section 8 of the Investment Company Act of 1940 to be a class of issuers for purposes of establishing the fees pursuant to this section, and that investment companies as a class will pay a fee rate that is consistent with the reduced risk they pose to investors when compared to an individual company. Audits of investment companies are substantially less complex than audits of corporate entities. The failure to treat investment companies as a separate class of issuers would result in investment companies paying a disproportionate level of fees.

In addition, I believe we need to be clear with respect to the area of foreign issuers and their coverage under the bill's broad definitions. While foreign issuers can be listed and traded in the U.S. if they agree to conform to GAAP and New York Stock Exchange rules, the SEC historically has permitted the home country of the issuer to implement corporate governance standards. Foreign issuers are not part of the current problems being seen in the U.S. capital markets, and I do not believe it was the intent of the conferees to export U.S. standards disregarding the sovereignty of other countries as well as their regulators.

I also realize inconsistencies appear in sections 302 and 906. The SEC is required to complete rulemaking within 30 days after the date of enactment with regard to CEO certification under section 302. However, section 906 suggests that certification would be required upon enactment, thus the penalties would go into effect before the certification requirement is completed through the rulemaking process. I believe it was the intent of the Conferees that the penalties under section 906 should not become effective until the rulemaking process is finalized.

Under the conference report, section 3(a) gives the SEC wide authority to enact implementing regulations that are ''necessary or appropriate in the public interest.'' I believe it is the intent of the conferees to permit the Commission wide latitude in using their rulemaking authority to deal with technical matters such as the scope of the definitions and their applicability to foreign issuers. I would encourage the SEC to use its authority to make the act as workable as possible consistent with longstanding SEC interpretations.

Finally, I not only thank the Senators I have been able to work with on this, but I also thank the staffs. I thank particularly Katherine McGuire, my legislative director, and Mike Thompson, who handles my banking issues. I also thank Kristi Sansonetti, who works on all of my legal issues, and Ilyse Schuman, who played a very important role in the blackout pension period.

I thank, on Senator SARBANES's staff, Steve Harris, Marty Gruenberg, Steve Kroll, Dean Shahinian, Lynsey Graham, and Vince Meehan.

I thank, on Senator GRAMM's staff, Wayne Abernathy, Linda Lord, who is probably one of the most knowledgeable lawyers in this area I have ever encountered, Michelle Jackson and Stacie Thomas.

And, on Senator DODD's staff, I thank Alex Sternhell.

America will never know all the work these people have done on this bill, the hours they have spent on it, daytime and nighttime. I have seen them working in the early morning hours on this, and that is after spending the previous night working on it. They have just spent incredible time on this.

There is some incredible expertise among these people. Without their help, we would have never gotten to this point. So I thank all of them.

I thank the chairman and Senator GRAMM and all the others who have had a part in this. It is time we adopt this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, let me first say, I think Senator ENZI has been extremely gracious in recognizing the extraordinary contribution that has been made by the staff as we have formulated this legislation. I appreciate him doing that. I certainly associate myself with his remarks about the dedication and the perseverance and the extraordinarily high level of competence that is brought to this matter by staff on both sides of the aisle—committee staff and personal staff.

Mr. President, I yield 10 minutes to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. Mr. President, I am honored today to stand before the Senate to express my strong support and appreciation for the conference report that I suspect, within an hour or so, we will adopt, and, hopefully, unanimously, as we did the original bill that came out of the Senate.

I think it is historic. I think it is truly critical in bringing about the kind of important reforms that will make a real difference to our financial system, not just today but I think as a standard it will be very much an important part of the structure of our financial system for decades to come.

I have said often, since we have talked about this legislation, that it really does, in my mind, fill a large gap that has been missing in our securities laws that were written 70 years ago. I think it very well may be the most important step we will have taken in that interim period, to make sure we have a measured but strong securities and reporting structure in our Nation that makes for the depth and breadth and beauty and effectiveness of our financial markets.

This legislation, as has been noted, comprehensively deals with reform of our accounting profession, enhances corporate accountability, improves transparency, moderates conflicts in a number of parts of our financial world, deals with the transparency of corporate financial statements, strengthens the SEC, tightens penalties and more securely sets the law, and ultimately, I believe, will restore the trust, the needed trust, and investor confidence in the integrity of America's capital markets.

This was an absolutely necessary step at this time in our Nation's history. There has been an enormous betrayal of trust, demonstrated, certainly, by the headlines and the litany of corporate abuses. Let me say, it goes deeper than just the headlines. There have been 1,100 corporate earnings restatements in the last 4 years. There is a basic loss of more than just the simple sense of trust that people get from the headlines. It is hard for people to make investment decisions when they don't have good facts, good numbers, and the ability to draw good conclusions about where the investor dollar should go.

It has led to a misallocation of capital. And there was a serious need for people to have reform in this area because this betrayal really went at the heart of why people were employees of various firms, why investors put their trust in investing in companies, and why the American system, which so relies on trust, has been called into question with respect to the integrity of our financial markets in recent days.

It is an extraordinary step. I am pleased to have been a part of it.

I see the chairman just left the Chamber. I want to take a few moments to make sure he knows how strongly I feel about the leadership he played. For those who were not a part of this measured process that Chairman SARBANES put forward—I have said this to him personally—the 10 hearings we had were the moral equivalent of a graduate finance program. I

suspect that very few times in congressional history have we seen the breakdown in the detail and presentation of sophisticated information, complicated topics, presented with the security and integrity that were presented in our hearings that led to the creation of this legislation. He did an incredible job of putting together a bill.

I get a little nervous when I hear people say this was a rush to justice, a rush to an answer. This was one of the most thoughtful and measured programs of review put in place before the legislation was written that absolutely could ever have been conceived. He deserves enormous credit for making sure we were thoughtful in the process.

Like Senator ENZI, I compliment all the staffs who were involved in this. This was an incredible effort on all of their parts. From the bottom of my heart—and I am sure all those others who were involved in this process—I truly appreciate the thoughtfulness and care they all gave to it.

I also would be remiss if I did not mention Senator DODD for his great help in originally putting together our initiatives with regard to accounting reform, corporate oversight, and resourcing the SEC, which I think are fundamental parts of the legislation. We feel good about that. I think Senator DODD has taken an extraordinary step in leadership.

Once again, I say to the Senator from Wyoming, this is about making America better. It is fundamentally about doing the right thing at the right time. His leadership on that, to make sure we stayed constrained, as he says, thoughtful, and measured about how we addressed the problem, has been most appropriate, and I have appreciated the opportunity to work with him. I compliment him for that effort.

I would say the same about the Presiding Officer. The addition of a number of the amendments that have come, particularly with regard to bringing in the responsibility that is associated with lawyering in America, as important as it is for accountants and CFOs and CEOs, I think was an important step. There has been a lot of really great effort here.

Now that the chairman is back in the Chamber, I want to say again, this is a classic example of quality leadership, of thoughtful leadership, and getting to a result that will make a difference in the lives of Americans in the years ahead.

This is a little more personal for me because for the 5 years before I came here, I was a CEO. Sometimes you want to hide from that moniker these days since it is not so popular. I think these days about the words of Andy Grove, who said that he was ashamed and embarrassed by some of the actions and many of the actions that are associated with the abuse we have seen. I stand with Andy Grove on that.

This is not one of our prouder moments in our financial system. But what does make me proud is that we could work together in a bipartisan way to come to a thoughtful, measured response that will make a difference, that really will move our securities laws in a direction that will give the American people confidence in how they read an income statement, when they look at a balance sheet and when they judge where they want to work, that they will have the necessary information.

I am not going to go into detail on the bill. Senator SARBANES and Senator ENZI did that. It is a great piece of legislation. I don't think it went too far at all. In fact, I think it is about spot on. I am sure there will be things we will need to review in time, tweak with, but this is a good set of initiatives which will make a difference in America's financial system.

When we address these issues, it does beg to recognize that there are additional tasks that need to be addressed. I heard the chairman talk about it is not good enough to authorize; we have to appropriate the funds to go with the necessary obligations we put on the SEC; we need to make sure our new advisory board actually has the resources. I think we do. But their independence, their ability to function, will come because they have the resources. The same as the SEC; we have to do our job in the second part of this to make sure those resources are available.

We do need to make sure the SEC Commissioners are in place so that we can have a credible process of looking at enforcement and review of laws and making sure that as we structure the SEC in the days going forward, we have the best of minds brought to bear there. I hope we can vote on these Commissioners very quickly.

For myself—I know there are differences of views about this—there are other unmet items on the agenda. Not necessarily do they apply to this bill, but in my view we should, as a nation, deal with the stock options issue. I don't think Congress should write the accounting rules, but I believe to recognize that stock options are an expense is relatively self-evident to those who have operated in business. They are used as a substitute for compensation. Compensation is an expense. That is why you see Chairman Greenspan and all of what I think is the critical weight of those who have observed on this issue speaking out that this is an issue that needs to be addressed. The Bermuda registry of companies, derivatives regulation are also issues.

Could I have 1 additional minute?

Mr. SARBANES. I yield an additional minute.

The PRESIDING OFFICER. The Senator may continue.

Mr. CORZINE. We need to address these issues. There are missing gaps in other parts of our oversight of our securities markets and financial markets that need to be addressed.

Finally, I believe there is a gaping hole in our oversight of what our investors and employees and the public need to see addressed, and that is pension reform. I know working their way through Congress right now are a number of initiatives on it. Fewer than 50 percent of Americans have pensions. We have a major need to address this. We should pull it together in as thoughtful a way as Chairman Sarbanes has led our Senate to this conclusion, led this debate to a positive conclusion. I hope we will address that in the future. So, once again, I express my great gratitude to all those involved. I particularly thank Chairman SARBANES for his strong leadership.

Mr. SARBANES. Mr. President, I thank the able Senator from New Jersey for his kind and gracious remarks about my efforts. I underscore the enormously valuable contribution that Senator CORZINE made to the development not only of this legislation but all of the work that has come before the committee. He brought a perspective and perception here that were extremely important, enabling us to work through some difficult issues. I appreciate that.

I yield 7 minutes to the Senator from Vermont, chairman of the Judiciary Committee.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I thank the chairman. The Senator from California wishes 1 minute. I yield 1 minute to her.

Mrs. BOXER. Mr. President, I came to the floor to give my deepest thanks to Senator SARBANES and Senator LEAHY for leading us in just the way we needed to be led toward a tough, fair reform that would lead to confidence in our financial system. I also thank Senator ENZI for his work.

I was a stockbroker years ago, decades ago, and in those days the big accounting firms were known for their integrity, and CEOs were highly respected. That check and balance was lost along the way and it must be restored.

I believe this bill will do it and our people will, once again, have trust and confidence in our financial system. They will know when they read an annual report and it is signed off on by an accounting firm that it means what it says and says what it means. That will bring the stock market back into balance. It will not happen tomorrow. This isn't magic legislation. But over time confidence will be restored and our economy will be on solid footing once again. I thank my friends.

Mr. LEAHY. Mr. President, I thank Chairman SARBANES for his leadership on this impressive bill and on the conference agreement. The then-Congressman SARBANES was one of the first people I met when I came to Washington as an elected Member of this body. We have been friends from that time forward. I have been so pleased to work with him.

I am proud that the conference agreement includes and adopts the provisions of the Leahy-McCain amendment,

which the Senate adopted by a 97-to-0 vote—again, with the strong help and support of the Senator from Maryland.

These provisions are nearly identical to the Corporate and Criminal Fraud Accountability Act, which I introduced with Majority Leader DASCHLE and others in February. It was reported unanimously by the Senate Judiciary Committee in April.

The Presiding Officer helped get this through the Judiciary Committee. The Leahy-McCain amendment provides new crimes with tough criminal penalties to restore accountability and transparency in our markets. It accomplishes this in three ways: No. 1. It punishes criminals who commit corporate fraud. No. 2. It preserves evidence that can prove corporate fraud. No. 3. It protects victims of corporate fraud.

As a former prosecutor, I know nothing focuses one's attention on the question of morality like seeing steel bars closing on them for a number of years because of what they did.

The conference report includes a tough new crime of securities fraud which will cover any scheme or artifice to defraud investors. We added the longer jail term of the other body.

There are three key provisions of the Senate-passed bill that were not in the recently passed House bill but are now in the conference agreement. I think they are truly an essential part of a comprehensive reform measure. First, we extend the statute of limitations in securities fraud cases. In many of the State pension funds cases, the current short statute has barred fraud victims from seeking recovery for Enron's misdeeds in 1997 and 1998. For example, Washington State's policemen, firefighters, and teachers were blocked from recovery of nearly $50 million in Enron investments by the short statute of limitations. That is why the last two SEC Chairmen—one a Republican and the other a Democrat—endorsed a longer short statute of limitations to provide victims with a fair chance to recoup their losses.

Secondly, we include meaningful protections for corporate whistleblowers, as passed by the Senate. We learned from Sherron Watkins of Enron that these corporate insiders are the key witnesses that need to be encouraged to report fraud and help prove it in court. Enron wanted to silence her as a whistleblower because Texas law would allow them to do it. Look what they were doing on this chart. There is no way we could have known about this without that kind of a whistleblower. Look at this. They had all these hidden corporations—Jedi, Kenobi, Chewco, Big Doe—I guess they must have had ''little doe''—Yosemite, Cactus, Ponderosa, Raptor, Braveheart. I think they were probably watching too many old reruns when they put this together. The fact is, they were hiding hundreds of millions of dollars of stockholders' money in their pension funds. The provisions Senator GRASSLEY and I worked out in Judiciary Committee make sure whistleblowers are protected.

Third, we include new anti-shredding crimes and the requirement that corporate audit documents be preserved for 5 years with a 10 year maximum penalty for willful violations. Prosecutors cannot prove their cases without evidence. As the Andersen case showed, instead of just incorporating the loopholes from existing crimes and raising the penalties, we need tough new provisions that will make sure key documents do not get shredded in the first place.

It only takes a minute to warm up the shredder, but it can take years for prosecutors and victims to prove a case.

The conference report also maintains almost identical provisions to those authored by Senator BIDEN and approved unanimously by the Senate. These include enhanced criminal penalties for pension fraud, mail fraud, wire fraud, and a new crime for certifying false financial reports. As chairman of the Judiciary's Subcommittee on Crime and Drugs, Senator BIDEN deserves praise for his leadership of these issues.

It is time for action—decisive and comprehensive reforms that will restore confidence and accountability in our public markets for the millions of Americans whose economic security is threatened by corporate greed.

We cannot stop greed, but we can keep greed from succeeding.

We have seized this moment to make a good beginning to fashion protections for corporate fraud victims, preserve evidence of corporate crimes and hold corporate wrongdoers accountable. We have much to do to help repair the breaches of trust that have so shattered confidence in our markets and market information. We have made a good start today toward restoring that confidence but more will be needed. In addition we will need swift and strong enforcement actions and good faith administration of the reform set forth in our conference report. Our conference is concluding but our work is just beginning.

Again, I thank the Senator from Maryland.

Mr. SARBANES. Mr. President, I thank the Senator from Vermont. I underscore again how important his contributions were. The Senate Judiciary Committee reported out a bill without opposition in the committee. That is something which accompanied this legislation.

I yield 4 minutes to the Senator from South Dakota, and then it is my intention to go to the Senator from North Carolina.

Mr. JOHNSON. Mr. President, most of all I thank him for his extraordinary leadership on the development of this landmark legislation. I think it is fair to say this is the most critically important piece of investor protection legislation since the Securities Act of 1933 or the Securities Exchange Act of 1934.

This comes on the heels of the disclosure of corporate corruption that has been endemic in recent months, where we have witnessed lost jobs, lost savings, lost pensions, and ultimately lost confidence worldwide in America's capital markets.

There is an urgency that strong legislation be passed by this body and the Congress to restore confidence—restore both the perception and the reality of integrity in our capital markets.

This legislation is strong legislation. That is why it has been applauded by editorial writers from the east coast to the west coast. Senator SARBANES has been the subject of much congratulatory observation on the part of so many. This comes on the heels of, frankly, much weaker legislation that had been passed previously in the House of Representatives, the other body.

By passing a strong Senate bill, we were able to go to conference. I am proud to have served on that conference committee and to craft legislation there that goes in the direction of the Senate rather than in the direction of the other body and gives this Nation strong securities legislation. It provides a stiff penalty for corporate wrongdoing, creates a strong oversight board to ensure that corporate audits are done properly, and that the books, in fact, are not cooked. It imposes tough new corporate responsibility standards and implements control over stock analysts' conflicts of interest, so they are not making a fortune while advising their clients to invest. It requires public companies to quickly and accurately disclose financial information. It ensures that the Securities and Exchange Commission has the resources to accomplish its mission of regulating the securities markets.

These important provisions will ensure that America's financial markets remain efficient and transparent and the envy of the world. It will benefit average people who may not have had enough information to make informed decisions in the past and certainly could not have possibly known that the books were cooked, that the audits were incorrect, and that corruption was running rife. They had no way of knowing that.

This will turn that around. This is not the last word, but this is a critically important step in the right direction to returning integrity to our markets. We can observe, having come through this horrible experience in recent months of disclosure after disclosure of corruption having taken place, a recognition that free market economies can only work when there is a cop on the beat. Free market economies can only work when there are fair, well-enforced, and strictly enforced rules. A free market economy without rules, without a cop on the beat, is not an economy that will ever work at all.

This goes a long way, I believe, to reviving confidence in America's economic future. It goes a long way to restoring the fairness and transparency

so that people may make their investments—and investments may go up, and they may go down, but they can know when they make those investments, they are making those investments based on true and accurate analysis and not on bogus numbers that some audit firm on the take has been willing to put forward as the truth when, in fact, they are not the truth.

Again, the whole Nation owes a great deal of gratitude to Chairman SARBANES and to the Senate, in this case, for what I am confident is going to be an overwhelming vote in favor of this legislation.

I yield the floor.

Mr. SARBANES. Mr. President, I yield 6 minutes to the Senator from North Carolina.

The PRESIDING OFFICER (Mr. CORZINE). The Senator from North Carolina.

Mr. EDWARDS. Mr. President, I thank, along with all my colleagues, Senator SARBANES for the extraordinary work he has done on this bill. We are proud of him. America appreciates very much what he and others who have worked with him have done.

I also thank Senator ENZI, who is in the Chamber, and Senator CORZINE, who is presiding, for the work they have done with me on what I think is an important part of this legislation which, in addition to corporate CEOs and accountants, is holding the lawyers involved in these transactions responsible and accountable; that if they see something wrong occurring, they should do something about it—report it to their client, to the corporation, report it to the CEO, the chief legal officer and, if necessary, report it to the board.

In Congress, we are doing what needs to be done and stepping to the plate with regard to corporate responsibility. That is in striking contrast to what is going on in my home State right now.

At a time when Americans are demanding more corporate responsibility, when Congress is stepping up and doing what needs to be done, the President has gone to North Carolina today to ask for less corporate responsibility, to make it easier on insurance companies and to make it harder on victims.

The President is in North Carolina today proposing some of the smallest limits that have ever been proposed for families who have suffered tragedies, serious problems, as a result of poor medical care at a time when medical malpractice insurance premiums constitute way less than 1 percent, substantially less than 1 percent, of medical care costs in this country.

The President is holding a roundtable, as I speak, on this subject. I would like to see how many victims of medical negligence, of medical malpractice, people who have been devastated and their lives devastated, are participating in this roundtable. I know these people. For many years I have represented them. I have been in their homes. I have been in homes and spent time with families whose child will never walk, who have been blinded for life, who have been crippled for life, who have suffered injuries from which they will never recover.

These children blinded for life, crippled for life, severely injured for life—there is a description in the HHS report on which the President is relying which talks about when juries find they have been hurt and award money to them, they describe it as ''winning the lottery ticket.'' The parents of a child who has been blinded for life, the parents of a child who will never walk, rest assured they do not believe they have the winning lottery ticket.

My question is: How many of those people are the President talking to when he is in North Carolina today? The next time he comes back to North Carolina, we invite him to talk to some of those people because those are the ordinary Americans to whom he should be talking. Those are the people who are going to be impacted. The children who have suffered serious injuries are the ones who are going to have the greatest impact and have their rights taken away by what the President is proposing.

Unfortunately, listening to ordinary people is not what this administration does. They have done it time and time again. It is stunning, but it is sad and consistent. When this administration has a choice between protecting the rights of big companies, big insurance companies versus the rights of ordinary people, they choose the big insurance company, the big companies every single time. They have been dragged kicking and screaming to do something about corporate responsibility, which we are doing in the Congress.

On the Patients' Bill of Rights, on which Senator KENNEDY, Senator MCCAIN, and I have worked so hard, they have consistently sided with the big HMOs, which is why we do not have a Patients' Bill of Rights in this country.

On prescription drugs, when we tried to do something about the cost of prescription drugs on the floor of the Senate, this administration consistently sided with the big drug companies. When it comes to the environment, this administration has weakened clean air laws that protect the air for our children and consistently sided with the big energy companies that are polluting our air.

Today the President adds to that list, in going to the State of North Carolina, the big insurance companies. This President loves to talk about compassion. My question to him is: Where is his compassion for the victims?

Mr. President, I yield the floor.

Mr. BAYH. Mr. President, I rise today in support of the accounting reform and corporate responsibility conference agreement. I do so, because I believe very strongly that it is in the best interests of America at this critical time in our history.

I believe it goes way beyond mere accounting issues. What we are agreeing to today deals with the financial security of millions of individual investors across this country, the security of their pensions, their 401(k) programs, and their other investments for the future of their children and their grandchildren.

What we are talking about today involves the very vitality of our economy, the amount of investment that will take place in the economy, the number of jobs that will be created, and the vitality of farms. It involves the standing of AMERICA in the international economy, whether we will continue to be a safe haven for investments from those abroad, attracting the capital that helps us build a strong foundation for America's economy.

More than anything else, this bill embodies the basic values upon which this has been based. It clearly answers the question: Will we continue to encourage those virtues that have always characterized America and will our Nation continue to be the land of opportunity based upon hard work, honesty, and playing by the rules or, will we be perceived as the land of opportunity based upon deceit. I believe that the right answer, based upon traditional values and virtues, is embodied in the accounting reform and corporate responsibility bill.

I congratulate our colleagues, Senators SARBANES, DODD, CORZINE and ENZI. They demonstrated leadership and foresight in this issue.

Since the tragedies of 9/11, our country has been involved in twin struggles: One, the physical national security of this country; and, second, getting this economy moving again to ensure the economic security of Americans across this country. There are parallels between these two challenges. Both occurred as a result of unexpected tragedies but have presented us with opportunities to make this an even better, stronger, more secure Nation. Both involve breaking the political gridlock and the bureaucratic inertia that all too often make progress in this Capitol difficult. And both involve striking the right balance between individual freedom and liberty on the one hand, that we cherish, and collective security, which makes individual liberty meaningful, on the other.

Let me conclude where I began. This issue goes a long way beyond mere accounting issues. It goes a long way beyond economic policy. It goes to the very heart of who we are, what we stand for as a people, and the kind of values we cherish in the United States of America. This will protect individual investors. It will help to ensure the integrity of our economy. But more than anything else, it will ensure that those Americans who have embraced our tradition with virtues, who have worked hard and saved their money, who have played by the rules, and are honest are able to get ahead in this society.

It will send a loud and clear signal to those who practice corporate fraud that they do not have an avenue to success in this country. That does not embody the best values of America. I strongly support the accounting reform and corporate responsibility conference agreement. I urge my colleagues to enact this important legislation.

Mr. KERRY. Mr. President, I strongly support the Sarbanes-Oxley Act of 2002 because it will help end the corporate abuses that in recent months have plagued our economy and will help restore confidence in our economy. I would like to take this opportunity to express my appreciation for the efforts that Senator PAUL SARBANES, Chairman of the Senate Banking, Housing and Urban Affairs Committee, has made to develop and enact this important legislation. As a former member of the Banking Committee, I know how difficult it is to respond quickly to recent events that affected our capital markets. However, Senator SARBANES has put together a coalition which led to a unanimous vote in support of his bill in the Senate, and the provisions of which is the base text for this conference report.

The United States must stand for the fairest, most transparent and efficient financial markets in the world. However, the trust and confidence of the American people in their financial markets have been dangerously eroded by the emergence of serious accounting irregularities by some companies and possible fraudulent actions by companies like WorldCom, Inc., Enron, Arthur Andersen and others. Some investment banks have been charged with publicly recommending stocks for public purchase that their own analysts regarded as junk.

The shocking malfeasance by these businesses and accounting firms has put a strain on the growth of our economy. The misconduct by a few senior executives has cost the jobs of hardworking Americans, including 17,000 at WorldCom and thousands more at companies accused of similar wrongdoing. The lack of faith in our financial markets contributed to an overall decline in stock values and has caused grave losses to individual investors and pension funds. For example, the losses to the California Public Employees Retirement System from the recent WorldCom disclosures total more than $580 million.

The conference report creates a new Public Company Accounting Oversight Board to oversee the auditing of companies that are subject to the federal securities laws. The Board will establish auditing, quality control, and ethical standards for accounting firms. The conference report restricts accounting firms from providing a number of non-audit services to its audit clients to preserve the firm's independence. It also requires accounting firms to change the lead or coordinating partners for a company every five years.

The conference report requires CEOs to certify their financial statements or face up to 20 years in prison for falsifying information on reports. It keeps executives from obtaining corporate loans that are not available to outsiders. It requires public companies to provide periodic reports to the SEC on off-balance transactions, arrangements, obligations and other relationships that may have a material current or future effect on the company's financial condition. It requires directors, officers and 10 percent equity holders to report their purchases and sales of company securities within two days of the transaction.

I am pleased that the conference report includes the Corporate Fraud and Criminal Fraud Accountability Act which will provide for criminal prosecution and enhanced penalties of persons who defraud investors in publicly traded securities or alter or destroy evidence in Federal investigations. It will also prohibit debts incurred in violation of securities fraud laws from being discharged in bankruptcy and protect whistle blowers who report fraud against retaliation by their employers.

The conference report requires the SEC to adopt rules to foster greater public confidence in securities research including: protecting the objectivity and independence of stock analysts who publish research intended for the public by prohibiting the pre-publication clearance of such research or recommendations by investment banking or other staff not directly responsible for investment research; disclosing whether the public company being analyzed has been a client of the analyst's firm and what services the firm provided; limiting the supervision of research analysts to officials not engaged in investment banking activities; protecting securities analysts from retaliation by investment banking staff.

The provisions included in this legislation will help restore confidence in our capital markets and in turn will help provide for future economic growth. It is an important first step, not a last. Mr. President, I am pleased to support the Conference Report and will continue to look for ways to improve investor confidence in our financial markets.

Mr. SCHUMER. Mr. President, everyone knows that New York City is the financial capital of the world. Yet as we continue to rebuild our city in light of the tragic events of September 11, we are now faced with the devastating effects of depressed markets and unsure investors, who are once again victims. With more than half of American households investing in the markets, we're all affected by a crisis in investor confidence.

I can't think of a more appropriate time than the present for the Senate to debate legislation to restore dwindling investor confidence and bring sound footing back to our financial markets. Isn't it ironic? Just a few weeks ago, the headlines read ''Sarbanes bill dead'' or ''Accounting Reform Fading.''

In the wake of recent revelations about WorldCom and just 2 days ago Merck, corporate corruption has reached an all-time high; we are now at a new level of corporate corruption. We've reached a new low and the question every member of the Senate must be asking is: ''Where does it end?''

Buzzwords like ''accounting fraud,'' ''corporate corruption,'' ''Restatements,'' ''Cooking the books,'' are being bandied about in the press, in the coffee shops, at the dinner tables across America. Just this weekend at the Taste of Buffalo, people came up to me and said ''Throw 'em in jail, Chuck!'' They were talking about the Ken Lay's, Bernard Ebers', the Andrew Fasdow's of the corporate world. White collar criminals who ran giant corporations and used tricky gimmicks to rob investors of not only their hard money but also their confidence in the strongest and fairest markets in the world. * * * They are the investment giants: Enron, Arthur Andersen, Adelphia, CMS Energy, Reliant Resources, Dynergy, Tyco International, and now Xerox and WorldCom. A mere handful of our nations top companies who have gone under as a result of misrepresented earnings and poor management. In less than a years time, these so-called investment giants through the great gift of deceit and tricky accounting practices have reduced themselves to mere shells of their former existence.

As a result, their use of tricky gimmicks to hide the real picture and literally milk the system dry have caused investors around the globe to question integrity of our nations markets, which are supposed to be the strongest and most resilient because they are perceived as the most open, most transparent markets in the world. Up until now, the United States had been a magnet for foreign investment. Yet, the selfish, greedy actions of a small few have led to a steady and precipitous drop in foreign investment in our financial markets.

It is no secret that greed played a major role in our markets rapid decline and slow demise. The heads of these entities stole millions, some billions of dollars from investors, and it is now time that we make them pay for their actions.

I commend the NASDAQ and the New York Stock Exchange for their announcements of new, tough corporate governance standards. The New York markets have taken the first steps to correct corporate corruption, and now it is our turn to find the right balance in light of these unsteady markets and times.

So what is the right balance? The right balance is one that will not only offer strict corporate governance laws, protect the average investor from being swindled out of his or her hard earned savings by a fast-talking, wheeling and dealing broker, but will

also severely punish those individuals who intentionally mislead investors with faulty practices. That is why I am introducing the following amendments to the Public Company Accounting Reform and Investor Protection Act of 2002 to further limit the ability of company execs from personally manipulating and rigging the system for their personal benefit and interest.

The first amendment prohibits companies from issuing personal loans to company executives as seen with Worldcom, whose CEO received more than $300,000 in loans from the technology giant. Instead, CEOs will have to go to the bank, just like everyone else, to acquire a loan; which, will reduce the risk of CEOs ability to use company funds for personal purposes.

The second amendment requires company execs to forfeit any and all bonuses and additional compensation if their restatements occur along with criminal liability.

It is my hope that by revealing the few bad apples at the bottom of the barrel, and punishing these individuals for their immoral behavior, we can save the rest of the industry and restore confidence in our markets.

The legislation pending before us will make it harder for companies to lie about their assets. Thats the least we can do in re-establishing public confidence in corporate America. Our common purpose today is to ensure that the Enron's, the Tyco's, and the WorldCom's never happen again.

Now is the time for us to act. It is the least we can do to shore up the investing public's confidence in our markets.

Mr. WELLSTONE. Mr. President, 2 years ago it was pretty lonely being in favor of the auditor independence reforms that then-SEC Chairman Arthur Levitt said were necessary to guard against unprecedented accounting scandals. I am proud that I was one of the few who thought Chairman Levitt was going in the right direction. Unfortunately it took the implosion of several multi-billion dollar firms, and a loss of tens of thousands of jobs and hundreds of billions of dollars in investor equity, to prove that he was right. Now America's capital markets have been shaken by a dramatic loss in investor confidence, threatening the economic recovery.

But today, Congress has acted. I rise today in strong support of the Public Company Accounting Reform and Investor Protection Act conference report. I commend the Senator from Maryland, the Chairman of the Banking Committee for putting together significant, structural reform of corporate governance and auditor independence and for defending it in conference.

And I am heartened that the President and the House leadership have finally agreed to comprehensive reform instead of mere half-measures and tough rhetoric.

This bill holds the bad actors accountable for their fraud and deception. But the legislation goes much further, as it should, because the problem goes much deeper. We are faced with more than the wrong doing of individual executives, we are faced with a crisis in confidence in American capital markets and American business.

This conference report retains the strong Senate reforms virtually intact. It bars an auditor from offering audit services and other consulting services to the same client. It says publically traded companies must change the partner in charge of the audit every five years. It strengthens oversight of accountants, by establishing an independent board to set and enforce standards. And it enhances disclosure. This alone is real reform. But the bill does more. It makes corporate executives more accountable to their shareholders. It makes investment analysts more accountable to the public. And it's bill contains strong penalties for corporate wrong-doers.

All and all, this legislation lets the sunshine back into the smoke-filled corporate board rooms so that insiders have harder time cheating the outsiders. It is structural reform that restores checks and balances that will protect against fraud, deception, and reckless carelessness.

We need to restore America's faith in corporate America. It has gone beyond individual wrong doing. The system hides and encourages corruption. Today the Congress passes strong reform. Now I call on the President to make enactment and enforcement of this new law a priority.

Mr. BOND. Mr. President, last night, the conference committee released its final report on comprehensive accounting reform and corporate governance legislation. The reaction of our financial markets confirms that this legislation is absolutely necessary to help restore integrity and confidence to our free market system and our investment community.

However, in our rush to enact broad reforms, we may be damaging the economic framework for small companies to reach our capital markets. In the long term, the reforms will make our economy stronger. In the short term, we will be creating complete chaos for small publicly traded companies and companies trying to gain the capital for growth through stock offerings.

I am extremely disappointed in the conferees' decision not to recognize this fact and provide the Securities and Exchange Commission and the proposed Public Company Accounting Oversight Board with greater flexibility in dealing with small firms. Small business has been the driving force of our economy for well over a decade. The high hurdles in the legislation are necessary for large, conglomerate companies but they may be a trip wire for our small business entrepreneurial community.

Mr. SARBANES. Mr. President, I note that the Congress, in the Enhanced Review of Periodic Disclosures section in the Sarbanes-Oxley Act, provides for regular and systematic reviews by the Securities and Exchange Commission of the periodic reports filed by public companies that are listed on a national securities exchange or on Nasdaq. The section requires that there be some review of issuers' disclosures at least once every three years. The bill identifies factors which the Commission should consider in scheduling reviews, including the issuer's capitalization, stock price volatility and restatements of earnings. We expect the Commission to exercise its discretion to determine the appropriate level and scope of review for each company's reports in the furtherance of the protection of investors and the public interest.

The PRESIDING OFFICER. Who yields time?

Mr. SARBANES. Mr. President, may I ask what the time situation is?

The PRESIDING OFFICER. The Senator from Maryland has 15 minutes 10 seconds. The Senator from Wyoming has 21 minutes 30 seconds.

Mr. SARBANES. I yield 3 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. I thank the Chair.

Mr. President, this is an extremely important day for our capital markets, for our country, and for the future of our economy. As we all know, capitalism has its ups and downs and works in ups and downs, and there have been periods throughout our history—I can think of the S&L crisis a decade ago—where things get off track, out of control. It is our job as Government not to interfere with entrepreneurial vigor, not to create such regulation that they become a straitjacketed company, but at the time when the markets show that things have gotten off track, it is our job to help put them back on track.

There is a bottom line principle here: If investors, whether throughout the United States or the rest of the world, do not believe companies are on the level, they will not invest. Unfortunately, the revelations of the last year have given people the view that they are not on the level. That it is not the same for them in terms of even information as it is for somebody at the top, that the information they may be getting may be wrong or distorted far beyond what they normally would in the world. So this bill puts that back.

I think it is a carefully balanced bill. There are some changes in it. There are some changes not in it that I would like to have seen, but the perfect should not be the enemy of the good. It is a good bill, a fine bill. In fact, when the agreement was reached, the Dow Jones went up 400 points. I do not think it was coincidental. Whether it be CEOs of large companies or individual investors, the public is saying to us, make it right. Look at the abuses that occurred in the past and make sure they cannot occur again, and do it

in a careful way that keeps our markets fluid, liquid, deep, and important. I think this bill does it.

I want to pay a great deal of tribute to our chairman, Senator SARBANES, and to so many others who made this bill a reality. With the passage of this bill, we can tell investors, while we have not cleared up every problem, and perhaps we will come back and address this later—I think we will have to in a couple areas—we have certainly made things better.

A few weeks ago, Washington looked as if it was dithering in the face of crisis, but today we proudly act in a bipartisan way to restore faith in our markets, the deepest, strongest, and best markets in the world.

I dare say, I know there are some who are against any change or any regulation, but our markets will be stronger tomorrow than they were this morning when this bill passes the House, the Senate, and is signed by the President.

The PRESIDING OFFICER. Who yields time?

Mr. SARBANES. Mr. President, we are down quite far in our time. Senator DODD, who wishes to speak, is at a memorial service. I suggest if the other side could use some of its time, it would be helpful in balancing this out. I ask unanimous consent that while we are trying to work this out the time not be charged to either party, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ENZI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ENZI. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SARBANES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SARBANES. Mr. President, I yield 8 minutes to the distinguished Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, when we opened the conference on this legislation a week or so ago, I said my hope was the passage of this bill would be quick, decisive, and unanimous. Two out of three is not bad. We got quick and decisive and almost unanimous. Our colleague from Texas, and our friend, was unable to support the final product for reasons he has already explained.

I thought we did an excellent job in moving as quickly as we did. I believe passage of the legislation and the quick and decisive manner and nearly unanimous way we achieved the result and overwhelming support of the Senate and the House fulfill a responsibility of Congress to protect investors. There is more work to be done, but we have begun a significant part of the journey. In fact, we traveled a great distance down the road in fulfilling a congressional responsibility in responding to the events that began to unfold, at least to the public's awareness, last October. And the story is not yet complete. We do not know the final results.

I have a few minutes in which to share some thoughts. I am going to move quickly to share comments. I begin by commending my colleague from Maryland, the chairman of the Banking Committee, for the tremendous job he has done. I said yesterday, any students of the Congress of the United States who want to seek out good examples of how a legislative product can be developed, nurtured, analyzed, discussed, debated, and finally passed, this is about as good an example as I have seen in recent years of how one ought to proceed. Certainly the hearings we held in the Banking Committee I don't recall attracting much attention. I don't recall a single one of the 12 hearings we held appearing on the nightly news or being lead stories on some of the 24-hour news stations.

I recall a great many hearings where people sat there, raised their right hand, and took the fifth amendment. That got a lot of attention. The 12 hearings held in the Banking Committee of the Senate, where we went through the deliberate, slow, ponderous process of actually listening to people who had something to say about what ought to be done to clean up this mess, never made it on the nightly news that I am aware of.

I commend again my friend and colleague with whom I have enjoyed my service in the Congress of the United States for more than a quarter of a century. We have sat next to each other for a good part of that time in both the House and in this Chamber. I sit next to him on the Foreign Affairs Committee and on the Banking Committee. If I could make the choice and it would not be determined by seniority, I would make him my choice for seatmate. I have great respect for him and admire him immensely. He has proven the value of having PAUL SARBANES as a Member of this body.

I also point out the Presiding Officer, one of the most junior Members of this Chamber, who provided an incredible, invaluable support and source of ideas, guidance. Rarely does a new Member play such an important role on such an important piece of legislation. Of any Member who was involved in this process, MIKE ENZI of Wyoming and others all would agree, in any history written of the development of the bill, the role of a freshman Senator from the State of New Jersey named JON CORZINE needs to be talked about. He played a very important role. We would not be here without him. I tip my hat to him and to MIKE ENZI, the only Member of this Chamber who actually knew something at a practical level about what it was to be an accountant and what life was like in the trenches.

For the staff and others who worked on this legislation, this was not the most popular idea in the world. Had it not been for unfolding events, I am not sure we would have developed that kind of support. I will love to one day tell my daughter, who is only an infant, that it was the power of our persuasion which convinced a majority here to go along.

Not many understood the value, the substantive value, of this bill. MIKE ENZI did, a number of others did, there were many in the House who did, but an awful lot of people, even as late as a week ago, were suggesting maybe this bill was a bad idea, and that it would not go anywhere, and it shouldn't go anywhere; we ought to spend another couple of months thinking about it.

Those notices were not a month old, or 2 months old; that was 5 or 6 day ago. I understand it was the public's demand that we respond to this that had an awful lot to do with the support we garnered. That is all right. I never argue about how you get support around here as long as you get it in the end. We got it in the end, and that is the important news.

The fact is, we are about to vote overwhelmingly to support a very critical piece of legislation. I am confident, as he has already indicated, that the President will sign this bill into law. We are already seeing markets respond, not entirely because of this, but certainly in no small measure because of the events that have unfolded and the parts Congress played.

The chairman of the committee has talked about part of the bill. There are very important pieces, including the auditor independence. The board will be revolutionary in how it operates. Someone pointed out today, a lot of what the regulators do will determine the value of what we have written legislatively. I am confident that will be the case.

Having FASB now be compensated for and paid for from public money and not relying on the largess and generosity of the accounting industry to receive compensation will make a significant difference in establishing accounting rules and procedures. Certainly having prohibitions against those going from the industry, working for the clients for whom they have done audits, will have a beneficial effect on slowing down this not only appearance of conflict, but certainly the conflicts of interest that have occurred too often.

There are many other parts of the bill, including corporate penalties, that were crafted by our colleague from Vermont and other Members of the Judiciary Committee, that deserve a great deal of credit for their contribution to this process. The leadership,

Senator DASCHLE, certainly for insisting we move as rapidly as we did to get the product done in committee and get it on the floor of the Senate, understanding how important this issue would be to the shareholder interests and pensioners and to others who depend upon a solid, strong economy for their well-being—certainly their contribution is extremely important as well.

We have seen the economy begin to do a bit better. I don't think our work is done, despite the accomplishments in this legislation. My hope would be that before this Senate adjourns in a week and a half from now, we might deal with the pension issue. I don't know if that will be possible. I know there are a lot of other issues that need to be considered. My hope is if we are not able to do that in the next week and a half, we will come back soon after we reconvene in September.

I sit on the Health, Education, Labor, and Pensions Committee with the presiding officer who is interested in that committee. My hope is that we can deal with the pension reform matters that are necessary, as well, for adoption by this Congress before the 107th Congress adjourns.

Again, I commend all those involved. I thank Alex Sternhill of my office, Steve Harris, Marty Gruenberg, all the Members who worked with the chairman's committee and the full committee of the Senate Banking Committee, and those on the minority side, as well, who played an extremely important role.

While he disagreed with the final outcome of the bill, the Senator from Texas and I have had a great relationship over these many years we have served together. I have always enjoyed being on his side. He is a tough opponent, but when we worked together we have done some pretty good work around here and passed some pretty good bills.

He is leaving and I believe the Senate will be less vibrant an institution because of his absence. It is important that this place be a place of ideas for debate to occur, and the Senator from Texas has always made that kind of contribution.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DODD. Hang on. I am commending him. He is going to give me more time.

Mr. GRAMM. The Senator can have all the time he wants.

Mr. DODD. Mr. President, I have learned after more than 20 years that if you want the minority to give you a little more time, start complementing them. It is amazing. Egos are alive and well in the Senate.

I am going to miss him. He is not done. We have more work, obviously, in the remaining weeks, but this may be one of the last major bills the Banking Committee considers. I don't know what life holds for him down the road, but the good Lord is not done with him yet.

I look forward to your vibrancy, your ideas, and your passion in whatever role you decide to assume in the next part of your life, and thank you for the tremendous work you have given to the committee and this body through your service.

I thank again the chairman and other members of the committee for contributing to what may be one of the most important pieces of legislation this body will consider in the 107th Congress and one of the most important in the area of financial services in many, many decades.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GRAMM. Mr. President, how much time do we have?

The PRESIDING OFFICER. The Senator from Texas has 14 minutes.

Mr. GRAMM. We were going to shoot for about 4:30 so I may yield some of it back, depending on who comes over.

Let me, first, thank my dear colleague, Senator DODD, for his kind comments. I have enjoyed working with him over the years. I very much appreciate the comments he made.

I want to say something about my staff. A famous philosopher once said: In no way can you get a keener insight into the true nature of a leader than by looking at the people by whom he surrounds himself.

I would always be happy to have anybody judge me by Linda Lord and by Wayne Abernathy. It is amazing how much impact staffers have on the Senate. I am blessed in this area to have two of the best staff people who have ever served any Senator in the history of this country. On most issues on which I worked with Linda Lord, she knows more about this subject than anybody, and generally more than everybody else combined. In working with her, I see that the Lord was a great discriminator; he gave some people incredible ability and most of us he gave relatively few, in the way of talents. I thank her for the great job she has done.

I thank Wayne Abernathy. In the years I was chairman of the Banking Committee, Wayne Abernathy was chairman of the Banking Committee. In the day-to-day work, he has made an incredible contribution. If there is an unfairness to it, it is that I have gotten credit for all the good work that they have done, and I am grateful for that.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SARBANES. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. SARBANES. I yield 1 minute to the Senator from Minnesota.

Mr. WELLSTONE. I thank the Senator from Maryland. I thank him forhis great leadership and the other Senators working on this. I can only say this in 1 minute: I remember when Arthur Levitt came by several years ago to talk with me about the need for audit independence. Senator SARBANES and others have made that possible. Many people took their savings, converted it to stock, and thought it would be there for their children or grandchildren. Many people had 401(k)s they were counting on. All of this has eroded in value. Investors do not have the confidence in the economy. I think the key is to make the structural change and make sure people can count on the independent audits, that no one is cooking their books. This is the best of government oversight. I am very proud to support this legislation.

Once again, I thank the chair of the Banking Committee for exceptional leadership.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, as Senator GRAMM was speaking earlier I was thinking to myself that he really was exemplifying on the floor of the Senate the sort of dialog we went through in the committee. As he was making an argument about auditor independence, I was thinking that is really a very reasonable argument and one to which we really paid attention. I want to give the counterargument, and then make a concluding comment about the terrific work of the staff on this bill.

Senator GRAMM has suggested that the conference report should be changed to give the SEC or the Oversight Board authority to grant broad categorical exemptions from the list of non-audit services that Section 201 of the bill prohibits registered public accounting firms to provide to public company audit clients.

Such a change, in my view, would weaken one of the fundamental objectives of the conference report: to draw a bright line around a limited list of non-audit services that accounting firms may not provide to public company audit clients because their doing so creates a fundamental conflict of interest for the accounting firms.

This limited list is based on a set of simple principles:

A public company auditor, in order to be independent, should not audit its own work (as it would if it provided internal audit outsourcing services, financial information systems design, appraisal or valuation services, actuarial services, or bookkeeping services to an audit client).

A public company auditor should not function as part of management or as an employee of the audit client (as it would if it provided human resources services such as recruiting, hiring, and designing compensation packages for the officers, directors, and managers of an audit client).

A public company auditor, to be independent, should not act as an advocate of its audit client (as it would if it provided legal and expert services to an audit client in judicial or regulatory proceedings.)

A public company auditor should not be a promoter of the company's stock or other financial interests (as it would be if it served as a broker-dealer, investment adviser, or investment banker for the company).

I want to emphasize that Section 201 does not bar accounting firms from offering consulting services. It simply requires that they not offer certain consulting services to public companies for which they wish to serve as ''independent auditor.'' An accounting firm is free to offer any services it wants to any public companies it does not audit (or to any private companies). It also may engage in any non-audit service, including tax services, that is not on the list for an audit client if the activity is approved in advance by the audit committee of the public company.

The conference report does authorize the new Oversight Board, on a case-by-case basis, to exempt any person, issuer, public accounting firm, or transaction from the prohibition on the provision of non-audit services to the extent that such exemption is necessary or appropriate in the public interest and is consistent with the protection of investors.

The exemptive authority provided the Board is intentionally narrow to apply to individual cases where the application of the statutory requirement would impose some extraordinary hardship or circumstance that would merit an exemption consistent with the protection of the public interest and the protection of investors.

But the fundamental presumption of the provision is that these non-audit services, by their very nature, present a conflict of interest for an accounting firm if provided to a public company audit client.

Arthur Andersen was conflicted because it served Enron as both an auditor and a consultant, and for two years it also served as Enron's internal auditor, essentially auditing its own work. Enron was Andersen's largest client, and in 2000 Andersen earned $27 million in consulting fees from the company ($25 million in audit fees).

In its oversight hearing earlier this year on the failure of Superior Bank in Hinsdale, Illinois, the Senate Banking Committee learned first-hand the risks associated with allowing accounting firms to audit their own work. In that case, the accounting firm audited and certified a valuation of risky residual assets calculated according to a methodology it had provided as a consultant. The valuation was excessive and led to the failure of the institution.

The SEC's recent actions against one of the large public accounting firms (KPMG) in an enforcement case illustrates the danger of allowing an accounting firm to serve as a broker dealer, investment advisor, or investment banker for a public company audit client (Porta Systems). In that case, the accounting firm set up an affiliate and the affiliate provided ''turn around'' services to the issuer, including functioning as the president of the company. There would have been no need for an SEC action if the non-audit service were simply prohibited.

The inherent conflict created by these consulting services has been exacerbated by their rapid growth in the last 15 years. According to the SEC, 55 percent of the average revenue of the big five accounting firms came from accounting and auditing services in 1988. Twenty-two percent of the average revenue came from management consulting services. By 1999, those figures had fallen to 31 percent for accounting and auditing services, and risen to 50 percent for management consulting services. Recent data reported to the SEC showed on average public accounting firms' non-audit fees comprised 73 percent of their total fees, or $2.69 in non-audit fees for every $1.00 in audit fees.

A number of the most knowledgeable and thoughtful witnesses who testified before the Senate Banking Committee in the hearings held in preparation for this legislation argued that the growth in the non-audit consulting business done by the large accounting firms for their audit clients has so compromised the independence of the audits that a complete prohibition on the provision of consulting services by accounting firms to their public audit clients is required. Perhaps the strongest advocates of this view have been the managers of large pension funds who are entrusted with people's retirement savings.

For example, the California Public Employees' Retirement System (CalPERS), manages pension and health benefits for more than 1.3 million members and has aggregate holdings totaling almost $150 billion. According to CalPERS CEO, James E. Burton:

> the inherent conflicts created when an external auditor is simultaneously receiving fees from a company for non-audit work cannot be remedied by anything less than a bright-line ban. An accounting firm should be an auditor or a consultant, but not both to the same client.

John Biggs is CEO of Teachers Insurance and Annuity Association College Retirement Equities Fund (TIAA-CREF), the largest private pension system in the world, which manages approximately $275 billion in pension assets for over 2 million participants in the education and research community. Mr. Biggs was also a member of the last Public Oversight Board. He told the Committee that:

> TIAA-CREF does not allow our public audit firm to provide any consulting services to us, and our policy even bars our auditor from providing tax services.

The conference report chose not to follow the approach of imposing a complete prohibition on the provision of non-audit services to audit clients. Instead it chose the approach of identifying the non-audit services which by their very nature pose a conflict of interest and should be prohibited. Among those supporting this approach are former Comptroller General Charles Bowsher, former SEC Chairman Arthur Levitt, and former Federal Reserve Board Chairman Paul Volcker.

The argument is made that small companies, in particular, may be burdened by this requirement and that the SEC should have broad authority to grant categorical exemptions. It is even argued that so many companies would seek case-by-case exemptions that the SEC would become overwhelmed and would be unable to process the exemptions in a timely manner.

The point is that if the provision of a non-audit service to a public company audit client creates a conflict of interest for the accounting firm that non-audit service should be prohibited, whether the public company is large or small. Investors rely on the audit in making their investment decisions, and the independence of the audit should not be compromised by the provision of the non-audit service. If a legitimate exceptional hardship is imposed, then the Oversight Board would have the authority to grant case-by-case exemptions.

The present Comptroller General, David Walker, issued a particularly strong statement in support of the approach to auditor independence taken in the bill conference report I would like to quote:

> I believe that legislation that will provide a framework and guidance for the SEC to use in setting independence standards for public company audits is needed. History has shown that the AICPA [American Institute of Certified Public Accountants] and the SEC have failed to update their independence standards in a timely fashion and that past updates have not adequately protected the public's interests. In addition, the accounting profession has placed too much emphasis on growing non-audit fees and not enough emphasis on modernizing the auditing profession for the 21st century environment. Congress is the proper body to promulgate a framework for the SEC to use in connection with independence related regulatory and enforcement actions in order to help ensure confidence in financial reporting and safeguard investors and the public's interests. The independence provision [of the bill] . . . strikes a reasoned and reasonable balance that will enable auditors to perform a range of non-audit services for their audit clients and an unlimited range of non-audit services for their non-audit clients. . . . In my opinion, the time to act on independence legislation is now.

This auditor independence provision is at the very center of this legislation. It goes to the public trust granted to public accounting firms by our securities laws which require comprehensive financial statements that must be prepared, in the words of the Securities Act of 1933, by ''an independent public or certified accountant.''

The statutory independent audit requirement has two sides, a private franchise and a public trust. It grants a franchise to the nation's public accountants—their services, and only their services—must be secured before an issuer of securities can go to market, have the securities listed on the nation's stock exchanges, or comply

with the reporting requirements of the securities laws. This is a source of significant private benefit.

But the franchise is conditional. It comes in return for the CPA's assumption of a public duty and obligation. As a unanimous Supreme Court noted nearly 20 years ago:

In certifying the public reports that collectively depict a corporation's financial status, the independent auditor assumes a public responsibility. . . . [That auditor] owes ultimate allegiance to the corporation's creditors and stockholders, as well as to the investing public. This ''public watchdog'' function demands that the accountant maintain total independence from the client at all times and requires complete fidelity to the public trust.

We must cut the chord between the audit and the consulting services which by their very nature undermine the independence of the audit. We must break this culture that exists, and to do that we need a bright line. In my view granting broad exemption authority to the Oversight Board or the SEC to permit these non-audit services would undermine the separation the conference report is intended to establish.

I wanted to underscore the fact that there was a very reasoned, intense discussion of these issues. There is reason on both sides. I thought the Senator made a very strong statement. I wanted to give the counterstatement here.

I share Senator DODD's view about this exchange of ideas and its importance to the functioning of this institution. The Senator from Texas has certainly made an important contribution in that regard.

I wish to take a moment to recognize the terrific work of the staff. Senator GRAMM referred to Wayne Abernathy and Linda Lord, and of course Mike Thompson and Katherine McGuire of Senator ENZI's staff; Laura Ayoud of the legislative counsel who worked day and night to put this thing in legislative language; the staff of the Banking Committee led by Steve Harris, Dean Shahinian, Steve Kroll, Lynsey Graham, Vincent Meehan, Sarah Kline, Judy Keenan, Jesse Jacobs, Craig Davis, Marty Gruenberg, Gary Gensler, and, as I said, all led so ably by Steve Harris.

We had the very able staff of the Senators on the committee: Alex Sternhell, Naomi Camper, Jon Berger, Jimmy Williams, Catherine Cruz Wojtasik, Leslie Wooley, Margaret Simmons, Matt Young, Roger Hollingsworth, and Matt Pippin.

I thank again all my colleagues who participated. I think I recognized most of them in the course of the day, and I want to say just a word about Chairman OXLEY and Congressman LAFALCE on the House side, who made it possible for us to work through this conference and with whom we have worked so cooperatively on so many issues that have come before our committee.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

Mr. SARBANES. How much time is remaining?

The PRESIDING OFFICER. The Senator from Maryland is without time. There are 12 minutes for the Senator from Texas.

Mr. GRAMM. Mr. President, we have reached the hour that we set for a vote. I am ready to yield back the 12 minutes and have the vote proceed.

I reiterate that this is a bill that was fraught with danger in the environment that we were in. Literally anything could have passed. I think, by a combination of good work and some good fortune, that has not been the case. We have a vehicle before us that I think will be complicated. It will be difficult to implement.

I think we will probably change it in the future. But I think in terms of our ability to prosper under the bill, and for the economy to survive not only the illness but the prescription of the doctor in this case, I think it is doable.

I yield the remainder of our time.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. SARBANES. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

I further announce that if present and voting the Senator from North Carolina (Mr. HELMS) would vote ''yea.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 192 Leg.]

YEAS—99

Akaka	Dorgan	Lugar
Allard	Durbin	McCain
Allen	Edwards	McConnell
Baucus	Ensign	Mikulski
Bayh	Enzi	Miller
Bennett	Feingold	Murkowski
Biden	Feinstein	Murray
Bingaman	Fitzgerald	Nelson (FL)
Bond	Frist	Nelson (NE)
Boxer	Graham	Nickles
Breaux	Gramm	Reed
Brownback	Grassley	Reid
Bunning	Gregg	Roberts
Burns	Hagel	Rockefeller
Byrd	Harkin	Santorum
Campbell	Hatch	Sarbanes
Cantwell	Hollings	Schumer
Carnahan	Hutchinson	Sessions
Carper	Hutchison	Shelby
Chafee	Inhofe	Smith (NH)
Cleland	Inouye	Smith (OR)
Clinton	Jeffords	Snowe
Cochran	Johnson	Specter
Collins	Kennedy	Stabenow
Conrad	Kerry	Stevens
Corzine	Kohl	Thomas
Craig	Kyl	Thompson
Crapo	Landrieu	Thurmond
Daschle	Leahy	Torricelli
Dayton	Levin	Voinovich
DeWine	Lieberman	Warner
Dodd	Lincoln	Wellstone
Domenici	Lott	Wyden

NOT VOTING—1

Helms

The conference report was agreed to.

Mr. SARBANES. Mr. President, I move to reconsider the vote.

Mr. DASCHLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DAYTON). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. CANTWELL). Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. REID. Madam President, I ask unanimous consent that immediately after the cloture vote on the nomination of Julia Smith Gibbons, all time postcloture be considered used, and that on Monday, July 29, at 5:30 p.m., the Senate proceed to executive session to vote on the nomination of Julia Smith Gibbons, to be a U.S. circuit judge; that upon confirmation, the President be immediately notified of the Senate's action and that the Senate return to legislative session; further, that on Friday, July 26, immediately following the cloture vote on the nomination, the Senate return to legislative session and resume consideration of S. 812; that Senator GREGG or his designee be recognized to offer a second-degree amendment; that during Friday's session, there be up to 3 hours for debate with respect to the amendment, with the time equally divided and controlled between Senators KENNEDY and GREGG or their designees; and that whenever the Senate resumes consideration of S. 812, the Gregg or designee amendment remain debatable.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT— EXECUTIVE CALENDAR

Mr. REID. Madam President, we have spent considerable time this evening in a quorum call, but in spite of that, we have had a very productive legislative day. We have passed the conference report on corporate governance; the Appropriations Committee this afternoon reported the final four bills out of the

Appropriations Committee; and we are finished with those and will bring them to the floor. We have gotten permission to go to the conference committee on terrorism, which we have been trying to do for weeks. There was significant progress made today with passage of the bankruptcy conference report, and there were other things.

But finally, what I want to say, we will shortly approve in a matter of a few minutes, four members to the Securities and Exchange Commission. That goes hand and glove with the work we have done on corporate governance. We are going to approve Cynthia Glassman to be a member, Harvey Jerome Goldschmid to be a member, Roel C. Campos to be a member of the Securities and Exchange Commission, and Paul S. Atkins will also be approved. We have had a very successful day.

For those watching, whether it is staff or people around the country, sometimes during the downtimes a lot of progress is made. Even as we speak, there is work being done to see if we can come up with a bipartisan amendment to handle the prescription drug problems that senior citizens have in America today. All in all, it was a good day for the country.

I ask unanimous consent that immediately following the cloture vote tomorrow, Friday, the Senate proceed to executive session to consider Executive Calendar No. 826, Christopher C. Conner to be United States district judge; that the Senate vote immediately on confirmation of the nomination, the motion to reconsider be laid upon the table, and any statements be printed at the appropriate place; that the President be immediately notified of the Senate's action, the Senate return to legislative session, and that the proceeding all occur without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. REED. I ask unanimous consent that we now proceed to a period of morning business with Senators allowed to speak for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEDICARE PRESCRIPTION DRUG COVERAGE

Mr. SARBANES. Madam President, I rise to express my disappointment about the outcome of the Senate's recent vote on Medicare prescription drug coverage. The Senate missed an opportunity to provide one of the most important expansions of Medicare benefits since the system was created in 1965. Senator GRAHAM's proposal, of which I was proud to be an original cosponsor with a number of my Democratic colleagues, would have provided comprehensive, voluntary, and affordable prescription drug coverage for all Medicare beneficiaries. Though the majority of the Senate supported this proposal, it lacked the votes necessary to proceed.

We know that more than 1 in 3 Medicare beneficiaries lack prescription drug coverage. We know, too, many seniors struggle to pay for the medicine they need to keep them healthy and treat their diseases and illnesses. We know that doctors are now put in the unthinkable position of considering a patient's financial situation when developing a course of treatment. Doctors are conflicted by this, but know that it does not benefit the patient to prescribe a drug, even though it may be the best method of treating or curing an illness, if the patient cannot afford the medicine.

More importantly, I, like most of my colleagues, continually hear from constituents who face this dilemma directly. They are ill, they are frustrated, and too many times, they are embarrassed to have made it this far in life and have to ask for help after years of independence. I have heard from those who may not have a direct need, but who are desperately seeking assistance for a loved one who needs help. They are frustrated to learn that there is nowhere for them to turn because Medicare provides nothing for outpatient drugs, yet they have too much income or too many assets to qualify for state offered assistance.

The Graham proposal would provide drug coverage for all Medicare beneficiaries for a $25 monthly premium, no deductible, a $10 copayment for generic drugs, and a $40 copayment for preferred brand name drugs. In addition, Medicare beneficiaries would have all of their prescription costs covered after they spend $4,000 in out-of-pocket costs. Assistance would begin with the very first prescription, and there would be no gaps or limits on the coverage provided. Under Senator GRAHAM's proposal, low-income seniors would not be required to pay premiums or copayments for their coverage.

Regrettably, some of my colleagues did not support the Graham amendment. They voted instead for an alternative that required seniors to pay a $250 deductible, while only covering 50 percent of their prescription costs up to $3450. After a Medicare beneficiary's costs exceed $3450, he or she would receive no assistance whatsoever until his or her costs reach $3700. Above $3700, the government would then only pay 90 percent of drug costs. Under this proposal, those who are the sickest, with the highest drug costs, would be forced to pay more when they require assistance the most.

Many of those who opposed the Graham proposal complained about the cost of this proposal. I find it perplexing that we can find money for other things, but not for the mothers, fathers, grandparents and other Americans that need our help in their older years. Opponents of the Graham bill found money to fund a large tax cut costing $1.35 trillion last year a tax cut that primarily benefit the very wealthiest Americans. Many of my fears about the decision to pass such a large and unreasonable tax cut have been realized raids on Social Security and Medicare, a return to budget deficits, instability in the financial markets. It has forced us unnecessarily to limit resources for those things that should be national priorities. I remain astonished that some believe tax cuts should be a priority over providing prescription drug coverage to everyday Americans who have worked hard and paid their taxes all their lives.

Yesterday, we had the chance to mark the 107th Congress with the greatest overhaul of Medicare benefits since its inception 37 years ago. I supported the Graham prescription drug plan along with 51 of my colleagues because I believe it is the only proposal that would provide Medicare beneficiaries with real comprehensive prescription drug coverage. I only hope that we can find a way to enact a meaningful Medicare prescription drug benefit this year. Our older Americans deserve no less.

IMMUNOSUPPRESSIVE DRUG COVERAGE AMENDMENT

Mr. DEWINE. Madam President, I wish to speak to an amendment of mine and my friend and colleague, Senator DURBIN, to help organ transplant patients maintain access to the lifesaving drugs necessary to prevent their immune systems from rejecting their new organs.

Every year, nearly 6,000 people die waiting for an organ transplant. Currently, over 67,000 Americans are waiting for a donor organ. Those individuals who are blessed to receive an organ transplant must take immunosuppressive drugs every day for the life of their transplant. Failure to take these drugs significantly increases the risk of the transplanted organ being rejected.

We need this amendment, because Federal law is compromising the success of organ transplants. Let me explain. Right now, current Medicare policy denies certain transplant patients coverage for the drugs needed to prevent rejection.

Medicare does not pay for anti-rejection drugs for Medicare beneficiaries, who received their transplants prior to becoming a Medicare beneficiary. So, for instance, if a person received a transplant at age 64 through his or her health insurance plan, when that person retires and relies on Medicare for health care coverage, he or she would no longer have immunosuppressive drug coverage.

Medicare only pays for anti-rejection drugs for transplants performed in a Medicare-approved transplant facility. However, many beneficiaries are completely unaware of this fact and how it can jeopardize their future coverage of

immunosuppressive drugs. To receive an organ transplant, a person must be very ill and many are far too ill at the time of transplantation to be researching the complexities of Medicare coverage policy.

End Stage Renal Disease, ESRD, patients qualify for Medicare on the basis of needing dialysis. If End Stage Renal Disease patients receive a kidney transplant, they qualify for Medicare coverage for three years after the transplant. After the three years are up, they lose not only their general Medicare coverage, but also their coverage for immunosuppressive drugs.

The amendment that Senator Durbin and I are introducing today would remove the Medicare limitations and make clear that all Medicare beneficiaries including End Stage Renal Disease patients who have had a transplant and need immunosuppressive drugs to prevent rejection of their transplant, will be covered as long as such anti-rejection drugs are needed.

In the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act, Congress eliminated the 36-month time limitation for transplant recipients who: 1. received a Medicare eligible transplant and 2. who are eligible for Medicare based on age or disability. Our amendment would provide the same indefinite coverage to kidney transplant recipients who are not Medicare aged or Medicare disabled.

I urge my colleagues to support this amendment and help those who receive Medicare-eligible transplants gain access to the immunosuppressive drugs they need to live healthy productive lives.

U.S. POLICY ON IRAQ

Mr. FEINGOLD. Madam President, I am pleased to cosponsor S.J. Res 41. As the resolution makes clear, the time is ripe for an open debate on our plans for Iraq.

Some are concerned that an open debate on our policy toward Iraq could expose sensitive intelligence information or that such a debate would tip our hand too much. Others fear that a meaningful debate could back the administration into a corner, and in so doing encourage the administration to adopt a tougher military response.

Ultimately, all of these arguments against an open and honest debate on Iraq could be made with respect to nearly any military decision, and if taken to their extreme, these arguments would challenge the balance of powers in the Constitution by excluding Congress from future war-making decisions. Moreover, to answer some of these concerns more directly, I would also note that the almost daily leaks from the administration on our Iraq policy have tipped our hand even more than responsible congressional hearings and debate would. It is hardly a secret that the United States is considering a range of policy options, including military operations, when it comes to Iraq. And the argument that an open discussion of military action could, in effect, become self-fulfilling is too circular to be credible.

I am concerned with the dangers posed by Saddam Hussein, as well as with the humanitarian situation in Iraq. But I am also very concerned about the constitutional issues at stake here. This may well be one of our last opportunities to preserve the constitutionally mandated role of Congress in making decisions about war and peace.

On April 17, 2002, I chaired a hearing before the Constitution Subcommittee on the application of the War Powers Resolution to our current antiterrorism operations. The focus of that hearing was to explore the limits of the use of force authorization that Congress passed in response to the attacks of September 11. At the hearing, leading constitutional scholars concluded that the use of force resolution for September 11 would not authorize a future military strike against Iraq, unless some additional evidence linking Saddam Hussein directly to the attacks of Sept. 11 came to light. Many of the experts also questioned the dubious assertion that congressional authorization from more than 10 years ago for Desert Storm could somehow lend ongoing authority for a new strike on Iraq.

On June 10, I delivered a speech on the floor of the Senate in which I outlined my findings from the April hearing. As I said then, I have concluded that the Constitution requires the President to seek additional authorization before he can embark on a major new military undertaking in Iraq. I am pleased that S.J. Resolution 41 makes that point in forceful legislative terms.

So this is indeed an appropriate time to consider our policy toward Iraq in more detail. I look forward to hearings that Senator BIDEN will chair before the Foreign Relations Committee. I also look forward to additional debate and discussion on the floor of the Senate, and, when appropriate, in secure settings, where the administration can make its case for a given policy response, and the Congress can ask questions, probe assumptions, and generally exercise the oversight that the American people expect of us.

Through these hearings and debates, it will be important to assess the level of the threat that exists, along with the relative dangers that would be posed by a massive assault on Iraq—dangers that include risks to American soldiers and to our relations with some of our strongest allies in our current anti-terror campaign. And it will be crucially important to think through the aftermath of any military strike.

We don't have to divulge secret information to begin to weigh the risks and opportunities that confront us. But the American people must understand the general nature of the threats, and they must ultimately support any risks that we decide to take to secure a more peaceful future. I don't think the American public has an adequate sense yet of the threats, dangers or options that exist in Iraq. I don't think Congress has an adequate grasp of the issues either. And that is why additional hearings and debates are so necessary.

Finally, I have always said that another military campaign against Iraq may eventually become unavoidable. As a result, I am pleased that S.J. Res 41 is neutral on the need for a military response, while recognizing the intrinsic value of open and honest debate. Following a vigorous debate, if we decide that America's interests require a direct military response to confront Iraqi aggression, such a response would be taken from a constitutionally unified, and inherently stronger, political position. We must also remember that constitutional unity on this question presents a stronger international image of the United States to our friends and foes, and, at the same time, a more comforting image of U.S. power to many of our close allies in the campaign against terrorism.

I am pleased to cosponsor S.J. Res. 41, and I look forward to a vigorous debate on this issue.

PATIENT SAFETY AND QUALITY IMPROVEMENT ACT

Mr. FRIST. Madam President, I rise today to discuss a very critical bill—S. 2590, the ''Patient Safety and Quality Improvement Act.'' This bill, which Senators JEFFORDS, BREAUX, GREGG, and I introduced in May, represents our next step in reducing the number of patients harmed each year by medical errors. Although a variety of patient safety initiatives are underway in the private sector as well as within the Department of Health and Human Services, Congress has an important role to play in reinforcing and assisting these efforts.

Today, the House Ways and Means Committee is expected to report a bipartisan bill—a bill that is almost identical to its Senate counterpart—that will help improve the safety of our health care system. Additionally, President Bush has highlighted the importance of this issue by formally supporting this crucial legislation. Moreover, this bill is supported by over thirty different health care organizations. Mr. President, I will ask that a list of those supporting organizations be included in the RECORD.

As a physician and a scientist, I know the enormous complexities of medicine today and the intricate system in which providers deliver care. I also recognize the need to examine medical errors closely in order to determine where the system has filed the patient. One method used in hospitals is the Mortality and Morbidity Conferences, in which individuals can

openly discuss patients' cases and examine problems in detail. Unfortunately, because those conferences represent a single, internal hospital event, we cannot obtain valuable, systematic information about problems or information that could be shared to allow providers to learn from each other's mishaps. Therefore, there is a need to create a broader, more inclusive learning system that encompasses all components of the health care system.

One impediment to that learning system is an inability to more closely examine patient safety events without the threat of increased litigation. The Institute of Medicine's report, To Err is Human, as well as experts who testified for the past few years in a series of Senate and House hearings, strongly recommended that Congress provide legal protections for information gathered to improve health care quality and increase patient safety. Without these protections, patient safety improvements will continue to be hampered by fears of retribution and recrimination. If we are to change the health care culture from ''name, shame, and blame'' to a culture of safety and continuous quality improvement, we must provide these basic protections.

However, we must be careful not to provide legal immunity for information that would normally be available for litigation, such as medical records. Rather, we should protect information that would be gleaned from providers' investigations of patient safety events. This information is not currently being reported in a way that would allow us to learn from our errors and improve the safety and quality of care for our patients.

Additionally, we must ensure that, in extreme circumstances, such as a criminal or disciplinary proceeding, the patient safety data is not used as a shield. In those circumstances, it is imperative that the information be shared, as disclosing that information is material to the proceeding, within the public interest, and not available for any other source. In this manner, we provide a balancing test—weighing the public good in sharing the information and providing the appropriate legal protections so that the system can be improved with the people good in weeding out the ''bad apples.''

In crafting this legislation with Senators JEFFORDS, BREAUX, and GREGG, we were careful to concentrate on the learning system and provide appropriate legal protections for that system. We view this as an essential first step in the ongoing, dynamic process of improving patient safety.

I also want to reassure my colleagues that this approach to improving medical care—providing limited confidentiality protections to ensure that we learn from the system—is not new to health care. Currently, there are at least five health care examples which use Federal confidentiality and peer review protections—the Centers for Disease Control and Prevention's National Nosocomial Infections Surveillance System, NNIS, the Food and Drug Administration's MedWatch, Veterans Health Administration, VHA, and the Centers for Medicare & Medicaid Services Quality Improvement Organizations, QIOs. Each of these confidentiality and peer review protections have improved the delivery of health care.

NNIS is a voluntary, hospital-based reporting system established to monitor hospital-acquired infections and guide the prevention efforts through description of the epidemiology of nosocomial infections, antimicrobial resistance trends, and nosocomial infection rates to use for comparison purposes. Since its inception in 1970, there has been a 34 percent reduction in the number of nosocomial infections. This dramatic decrease can be attributed, in part, to the availability of data for analysis and identification of system errors that were contributing to high rates. By law, CDC assures participating hospitals that any information that would permit identification of any individual or institution will be held in strict confidence. This allows hospitals to report accurately without fear of negative repercussions.

MedWatch is a voluntary Medical Products Reporting Program for quickly identifying unsafe medical products on the market. Through MedWatch, the Food and Drug Administration officials work to improve the safety of drugs, biologics, medical devices, dietary supplements, medical foods, infant formulas, and other regulated products by encouraging health professionals to report serious adverse events and product defects. Once an adverse event or product problem is identified, FDA can take any of the following actions: labeling changes, boxed warnings, product recalls and withdrawals, and medical and safety alerts. The aggregation of information through MedWatch has lead to drug recalls, such as Felbatol and Omniflox, and to label changes on approximately 30 percent of the New Molecular Entities each year.

To address the need for a non-punitive confidential reporting system, the VHA developed and continues to implement an innovative systems approach to prevent harm to patients within Veterans Administration's 163 medical centers. VHA has already implemented nationwide internal and external reporting systems that supplement the current accountability systems. Thus far, efforts have led to the implementation of physician ordering systems and safety bulletins, such as the proper handling of MRI equipment.

QIOs monitor and improve the quality of care delivered to Medicare beneficiaries. All information collected by QIOs for quality improvement work is non-discoverable. QIOs work directly and cooperatively with hospitals and medical professionals across the country to implement quality improvement projects that address the root causes of medical errors. QIOs use data to track progress towards eliminating errors and improving treatment processes. For example, the latest available national data, 1996–1998, show QIO projects resulted in 34 percent more patients getting medications to prevent a second heart attack; 23 percent more stroke patients receiving drugs that prevent subsequent strokes; 12 percent more heart failure patients getting treatment needed to extend their active lives; and 20 percent more patients hospitalized with pneumonia receiving rapid antibiotic therapy.

I appreciate the efforts made by Senators JEFFORDS, BREAUX, and GREGG thus far and look forward to working with them and others to pass this bipartisan legislation. I also value the leadership of the Bush Administration and my House colleagues on this critical issue. I hope that the Senate can also consider this important issue and come to a resolution in the near future.

I ask unanimous consent that the list of supporting organizations be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ORGANIZATIONS SUPPORTING THE ''PATIENT SAFETY AND QUALITY IMPROVEMENT ACT'' JUNE 6, 2002

Alliance of Community Health Plans, Alliance of Medical Societies, American Academy of Dermatology Association, American Academy of Family Physicians, American Academy of Neurology, American Academy of Pediatrics, American Association of Health Plans, Association of American Medical Colleges, American Association of Neurological Surgeons, American Association of Orthopaedic Surgeons, American Association of Thoracic Surgery, American College of Cardiology, American College of Emergency Physicians, American College of Osteopathic Family Physicians, American College of Osteopathic Surgeons, American College of Physicians-American Society of Internal Medicine.

American College of Radiology, American Gastroenterological Association, American Geriatrics Society, American Hospital Association, American Medical Association, American Medical Group Association, American Osteopathic Association, American Pharmaceutical Association, American Psychiatric Association, American Society for Clinical Pathology, American Society for Quality, American Society of Anesthesiologists, American Society of Cataract and Refractive Surgery, Congress of Neurological Surgeons, eHealth Initiative, Federation of American Hospitals.

General Motors, Healthcare Leadership Council, Institute for Safe Medication Practices, Joint Commission on the Accreditation of Healthcare Organizations, Joseph H. Kanter Family Foundation, Marshfield Clinic, Medical Group Management Association, National Association of Manufacturers, Premier, Society of Critical Care Medicine, Society of Thoracic Surgeons, Tennessee Hospital Association, U.S. Chamber of Commerce, U.S. Pharmacopeia, Vanderbilt University Medical Center, VHA Inc.

WE SHALL NOT FORGET: KOREA 1950–1953

Mr. ROCKEFELLER. Madam President, I rise on this day to commemorate the end of the Korean War, an often overlooked, yet very important event in history. ''Forgotten'' is a term used too often about the Korean War; for veterans and their families, the war is very real, and something they can never forget.

Officially, the war was the first military effort of the United Nations, but American involvement was dominant throughout the conflict. Thousands of Americans were shipped off to that distant land, joining with other soldiers from other allied nations, to help defend the rights of strangers against a hostile and merciless invasion. Unfortunately, many who fought bravely to aid the Koreans lost their lives while waging the war.

Today, I want to pay homage to all who served in this war. The troops from the United States and the 20 other United Nations countries who provided aid to the South Koreans deserve our great acclaim every day, but even more so on this special anniversary. These great countries united to preserve the rights of South Korea, a small democracy threatened by the overwhelming power of the Communist government. South Korea did not have sufficient military resources to protect its interests. Fortunately, the United Nations member countries were unwilling to sit back and watch North Korea, with the aid of China and the Soviet Union, drive democracy from the continent of Asia.

On June 25, 1950, troops from Communist-ruled North Korea invaded South Korea, meeting little resistance to their attack. A few days later, on the morning of July 5th—still Independence Day in the United States, Private Kenny Shadrick of Skin Fork, WV, became the war's first American casualty. Kenny was the first, but many more West Virginians were destined to die in the conflict , in fact, more West Virginians were killed in combat during the three years of the Korean War than during the 10 years that we fought in Vietnam.

At the end of the Korean War, a U.S. casualty report confirmed 36,940 battle deaths. An additional 103,284 servicemembers were wounded in battle. More than 8,000 Americans are still missing in action and unaccounted. How can we possibly call one of the bloodiest wars in history a ''forgotten war?'' Are those who served in Korea ''forgotten soldiers?''

Make no mistake, those who fought in Korea will never be forgotten. They serve as examples of true Americans, and the debt we owe to our Korean War veterans, like the veterans of all other wars, is immeasurable. Unfortunately, these soldiers, like the Vietnam veterans who followed, received no parade when they returned home. They quietly went back to the lives they left and blended into their communities, unsung heroes of a faraway war.

Six years ago, we dedicated the Korean War Memorial. This stirring tribute to the veterans of this war poignantly bears out the hardships of the conflict.

The Memorial depicts, with stainless steel statues, a squad of 19 soldiers on patrol. The ground on which they advance is reminiscent of the rugged Korean terrain that they encountered, and their wind-blown ponchos depict the treacherous weather that ensued throughout the war. Our soldiers landed in South Korea poorly equipped to face the icy temperatures of 30 degrees below zero, their weaponry outdated and inadequate. As a result of the extreme cold, many veterans still suffer today from cold-related injuries, including frostbite, cold sensitization, numbness, tingling and burning, circulatory problems, skin cancer, fungal infections, and arthritis. Furthermore, the psychological tolls of war have caused great hardship for many veterans.

As a background to the soldiers' statues at the Memorial, the images of 2,400 unnamed men and women stand etched into a granite wall, symbolizing the determination of the United States workforce and the millions of family members and friends who supported the efforts of those at war. Looking at the steadfast, resolute faces of these individuals invokes in the viewer a deep admiration and appreciation for their importance to the war effort.

Author James Brady, a veteran of the Korean War, spoke for all those who served in the war when he wrote, ''We were all proudly putting our lives on the line for our country. But I would later come to realize that the Korean War was like the middle child in a family, falling between World War II and Vietnam. It became an overlooked war.'' Mr. BRADY conveys the sentiments of many of the veterans who served in this war and underscores our need to give these veterans the recognition they are long overdue.

Today, I salute the courage of those who answered the call to defend a country they never knew and a people they never met. Through their selfless determination and valor in the battle, these men and women sent an important message to future generations. I thank our Korean War veterans; their bravery reminds us of the value we put on freedom, while their sacrifices remind us that, as it says at the Korean War Memorial, ''Freedom is not free.'' We shall never forget.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Madam President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred on October 14, 2000 in Billings, MT. Chris Lehman, 23, shot Roderick Pierson, 44, with a BB gun. Mr. Lehman later admitted to shooting Pierson because he was black. Mr. Pierson was shot while walking with his 6 year-old daughter.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

BURMESE MILITARY RAPES

Mr. MCCONNELL. Madam President, the military junta in Burma must be judged not by what it says, but rather by what it does.

The recent editorial in the Washington Post on the rape of ethnic minority women and girls by Burmese military officials is heartbreaking and horrific. It is by no means a stretch to characterize the junta's mismanagement and oppression of the people of Burma as a ''reign of terror.''

I join my colleagues in both the Senate and House who have called for justice for these heinous crimes, and for continued pressure on the illegitimate regime in Burma to relinquish power to the sole legitimate representative of the people of Burma, the National League for Democracy. As the editorial rightly states ''Burma's leaders cannot bring the criminals to justice because they are the criminals.''

I ask unanimous consent that a copy of the editorial ''The Rape of Burma'' be printed in the RECORD following my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 23, 2002]

THE RAPE OF BURMA

RECENT EVENTS have led some people to predict that one of the world's most repressive regimes may be growing a bit less so. The generals who rule, or misrule, the Southeast Asian nation of Burma, which they call Myanmar, released from house arrest the woman who should in fact be the nation's prime minister, Aung San Suu Kyi. They have allowed her to travel a bit, and they have released from unspeakable prisons a few of her supporters. Grounds for hope, you might think.

Then came release of a report, documented in horrifying detail, of how Burma's army uses rape as a weapon of war. The rapes take place as part of the junta's perpetual—and, outside Burma, little-noticed—war against ethnic nationalities, in this case in Shan state. The Shan Human Rights Foundation and Shan Women's Action Network documented 173 incidents involving 625 girls and women, some as young as five years old, taking place mostly between 1996 and 2001. Most of the rapes were perpetrated by officers, in front of their men, and with utmost brutality; one-quarter of the victims died.

What is telling is the response of the regime to the report. Rather than seeking to

bring the criminals to justice, it has unleashed vitriol against the human rights organizations, accusing them of drug-running and the like. This is the junta's usual pattern, whenever it is found to be scraping the bottom of the morality barrel: child labor, forced labor, torture. It denies all and attacks the truth-tellers. Yet, over the years the evidence of barbarity has been so inescapable that even the junta's would-be friends have found it impossible to overlook it. Burma's leaders cannot bring the criminals to justice because they are the criminals.

Later this month Secretary of State Colin Powell will travel to the region for meetings with senior officials. Earlier this month he instructed his diplomats to express outrage over the reported use of rape as a tactic of war; he should personally express the same outrage. He also should make clear that Aung San Suu Kyi—whose democratic party won an overwhelming victory in 1990 elections that the junta nullified—should be permitted more room to maneuver: permission to publish a newspaper, for starters. The Burmese regime should not receive rewards for cosmetic liberalization.

ADDITIONAL STATEMENTS

TRIBUTE TO MRS. MARIAN C. O'DONNELL

• Mr. SESSIONS. Madam President, I rise today to pay tribute to Mrs. Marian C. O'Donnell, an outstanding Civil Servant who will retire from the Federal Government on August 3, 2002 after distinguishing herself with over 31 years of dedicated service. During her career, Mrs. O'Donnell has served in a succession of key positions where she has established a pattern of clearly exceptional performance and service leading to outstanding results in all her duties for the Department of the Army and the Department of Defense.

Mrs. O'Donnell served in a succession of administrative and secretarial positions of ever increasing responsibility in Germany and the United States culminating in her current assignment for the past 15 years as the personal assistant to the Army's Chief of Legislative Liaison. Marian O'Donnell's efforts and accomplishments are examples of extraordinary dedication and professionalism. Throughout her career, she was honored repeatedly by her superiors because of her efficiency, meticulous attention to detail, and ability to handle a multitude of tasks simultaneously. Marion's understated charm resulted in numerous outstanding performance ratings, quality step increases, and two Commander's Award for Civilian Service which so many of her peers have tried to emulate.

While serving as the personal assistant to the Chief, Legislative Liaison Marian O'Donnell played a key role in the Army's congressional liaison efforts. She is the conduit though which Members of Congress, their staffs, senior Army and Defense officials dealt with the Army's leadership. A competent and unflappable professional, Marion has always placed the Army and our Nation first. Throughout her service, Marian O'Donnell was regarded as the thread resulting in smooth and flawless changes to the Army's congressional liaison leadership.

Despite the demands of her career Marian still found time to do volunteer work with her Church and serve as counselor with its Pregnancy Crisis Center. She is truly a civil servant of the first order and an outstanding citizen. On behalf of the Congress of the United States and the people of this great Nation, I offer my heartfelt thanks for her years of service and best wishes for a well-deserved retirement.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 9:33 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 4775. An act making supplemental appropriations for further recovery from and response to terrorist attacks on the United States for the fiscal year ending September 30, 2002, and for other purposes.

At 1:51 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3763) to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws, and for other purposes.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 5120. An act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 2003, and for other purposes.

H.R. 4628. An act to authorize appropriations for fiscal year 2003 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

H.R. 4965. An act to prohibit the procedure commonly known as partial-birth abortion.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 188. Concurrent resolution expressing the sense of Congress that the Government of the People's Republic of China should cease its persecution of Falun Gong practitioners.

At 4:02 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4946. An act to amend the Internal Revenue Code of 1986 to provide health care incentives.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 448. A concurrent resolution providing for a special meeting of the Congress in New York, New York, on Friday, September 6, 2002, in remembrance of the victims and the heroes of September 11, 2001, in recognition of the courage and spirit of the City of New York, and for other purposes.

H. Con. Res. 449. A concurrent resolution providing for representation by Congress at a special meeting in New York, New York, on Friday, September 6, 2002.

At 5:06 p.m. a message from the House of Representatives, delivered by Mr. Hayes, one of its reading clerks, announced that the House insists upon its amendment to the amendment of the Senate to the bill (H.R. 4546) to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense for military construction and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, and ask a conference with the Senate on the disagreeing votes of the two Houses thereon; and appoints the following Members as the managers of the conference on the part of the House;

From the Committee on Armed Services, for consideration of the House amendment and the Senate amendment, and modifications committed to conference: Mr. STUMP, Mr. HUNTER, Mr. HANSEN, Mr. WELDON of Pennsylvania, Mr. HEFLEY, Mr. SAXTON, Mr. MCHUGH, Mr. EVERETT, Mr. BARTLETT of Maryland, Mr. MCKEON, Mr. WATTS of Oklahoma, Mr. THORNBERRY, Mr. HOSTETTLER, Mr. CHAMBLISS, Mr. JONES of North Carolina, Mr. HILLEARY, Mr. GRAHAM, Mr. SKELTON, Mr. SPRATT, Mr. ORTIZ, Mr. EVANS, Mr. TAYLOR of Mississippi, Mr. ABERCROMBIE, Mr. MEEHAN, Mr. UNDERWOOD, Mr. ALLEN, Mr. SNYDER, Mr. REYES, Mr. TURNER, and Mrs. TAUSCHER.

From the Permanent Select Committee on Intelligence, for consideration of matters within the jurisdiction of that committee under clause 11 of rule X: Mr. GOSS, Mr. BEREUTER, and Ms. PELOSI.

From the Committee on Education and the Workforce, for consideration of sections 341–343, and 366 of the House amendment, and sections 331–333, 542,

656, 1064, and 1107 of the Senate amendment, and modifications committed to conference: Mr. ISAKSON, Mr. WILSON of South Carolina, and Mr. GEORGE MILLER of California.

From the Committee on Energy and Commerce, for consideration of sections 601 and 3201 of the House amendment, and sections 311, 312, 601, 3135, 3171–3173, and 3201 of the House amendment, and modifications committed to conference; Mr. TAUZIN, Mr. BARTON, and Mr. DINGELL.

From the Committee on Government Reform, for consideration of sections 323, 804, 805, 1003, 1004, 1101–1106, 2811 and 2813 of the House amendment, and sections 241, 654, 817, 907, 1007–1009, 1061, 1101–1106, 2811, and 3173 of the Senate amendment, and modifications committed to conference: Mr. BURTON, Mr. WELDON of Florida, and Mr. WAXMAN.

From the Committee on International Relations, for consideration of sections 1201, 1202, 1204, title XIII, and section 3142 of the House amendment, and subtitle A of title XII, sections 1212–1216, 3136, 3151, and 3156–3161 of the Senate amendment, and modifications committed to conference; Mr. HYDE, Mr. GILMAN, and Mr. LANTOS.

From the Committee on the Judiciary, for consideration of sections 811 and 1033 of the House amendment, and sections 1067 and 1070 of the Senate amendment, and modifications committed to conference: Mr. SENSENBRENNER, Mr. SMITH of Texas, and Mr. CONYERS.

From the Committee on Resources, for consideration of sections 311, 312, 601, title XIV, sections 2821, 2832, and 2863 of the House amendment, and sections 601, 2821, 2823, 2828, and 2841 of the Senate amendment, and modifications committed to conference: Mr. DUNCAN, Mr. GIBBONS, and Mr. RAHALL.

From the Committee on Science, for consideration of sections 244, 246, 1216, 3155, and 3163 of the Senate amendment, and modifications committted to conference: Mr. BOEHLERT, Mr. SMITH of Michigan, and Mr. HALL of Texas.

From the Committee on Science, for consideration of sections 244, 246, 1216, 3155, and 3163 of the Senate amendment and modifications committed to conference: Mr. BOEHLERT, Mr. SMITH of Michigan, and Mr. HALL of Texas.

From the Committee on Transportation and Infrastructure, for consideration of section 601 of the House amendment, and section 601 and 1063 of the Senate amendment, and modifications committed to conference; Mr. YOUNG of Alaska, Mr. LOBIONDO, and Ms. BROWN of Florida.

From the Committee on Veterans' Affairs, for the consideration of sections 641, 651, 721, 727, 724, 726, 728 of the House amendment, and sections 541 and 641 of the Senate amendment and modifications committed to conference: Mr. SMITH of New Jersey, Mr. BILIRAKIS, Mr. JEFF of Florida, Mr. FILNER, and Ms. CARSON of Indiana.

MEASURES REFERRED—JULY 24, 2002

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 3609. An act to amend title 49, United States Code, to enhance the security and safety of pipelines; to the Committee on Commerce, Science, and Transportation.

H.R. 4547. An act to authorize appropriations for fiscal year 2003 for military activities of the Department of Defense and to prescribe military personnel strengths for fiscal year 2003; to the Committee on Armed Services.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 4628. An act to authorize appropriations for fiscal year 2003 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes; to the Committee on Intelligence.

H.R. 4946. An act to amend the Internal Revenue Code to provide health care incentives related to long-term care; to the Committee on Finance.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 188. Concurrent resolution expressing the sense of Congress that the government of the People's Republic of China should cease its persecution of Falun Gong practitioners; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 5120. An act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 2003, and for other purposes.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 4965. An act to prohibit the procedure commonly known as partial-birth abortion.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BAUCUS, from the Committee on Finance, with an amendment in the nature of a substitute:

H.R. 4737: A bill to reauthorize and improve the program of block grants to States for temporary assistance for needy families, improve access to quality child care, and for other purposes. (Rept. No. 107–221).

By Ms. MIKULSKI, from the Committee on Appropriations, without amendment:

S. 2797: An original bill making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2003, and for other purposes. (Rept. No. 107–222).

By Mr. KOHL, from the Committee on Appropriations, without amendment:

S. 2801: An original bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2003, and for other purposes. (Rept. No. 107–223).

By Mr. BIDEN, from the Committee on Foreign Relations, with an amendment and with an amended preamble:

S. Res. 300: A resolution encouraging the peace process in Sri Lanka.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. SARBANES for the Committee on Banking, Housing, and Urban Affairs:

*Paul S. Atkins, of Virginia, to be a Member of the Securities and Exchange Commission for the remainder of the term expiring June 5, 2003.

*Cynthia A. Glassman, of Virginia, to be a Member of the Securities and Exchange Commission for a term expiring June 5, 2006.

*Harvey Jerome Goldschmid, of New York, to be a Member of the Securities and Exchange Commission for the term expiring June 5, 2004.

*Roel C. Campos, of Texas, to be a Member of the Securities and Exchange Commission for a term expiring June 5, 2005.

By Mr. JEFFORDS for the Committee on Environment and Public Works:

*John Peter Suarez, of New Jersey, to be an Assistant Administrator of the Environmental Protection Agency.

*Carolyn W. Merritt, of Illinois, to be chairperson of the Chemical Safety and Hazard Investigation Board for a term of five years.

*Carolyn W. Merritt, of Illinois, to be a Member of the Chemical Safety and Hazard Investigation Board for a term of five years.

*John S. Bresland, of New Jersey, to be a Member of the Chemical Safety and Hazard Investigation Board for a term of five years.

By Mr. BIDEN for the Committee on Foreign Relations.

*James Franklin Jeffrey, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Albania.

Nominee: James Franklin Jeffrey.

Post: Albania.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, donee:

1. Self, none.
2. Spouse, Gudrun Jeffrey, none.
3. Children and Spouses:
Jahn Jeffrey, none.
Julia Jeffrey, none.
4. Parents:
Herbert F. Jeffrey, (deceased 1973).
Helen Grace Jeffrey, (deceased 1974).
5. Grandparents:
Herbert Jeffrey, (deceased 1969).
Joseph O'Neill, (deceased 1960).
Helen Jeffrey, (deceased 1961).
Margaret O'Neill, (deceased 1977).
6. Brothers and spouses:
Names:
Edward Jeffrey, none.

Linda Jeffrey, none.
7. Sisters and Spouses: Not applicable.

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*James Irvin Gadsden, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Iceland.
Nominee: James Irvin Gadsden.
Post: Iceland.
The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.
Contributions, amount, date, donee:
1. Self: James Irvin Gadsden, none.
2. Spouse: Sally Freeman Gadsden, none.
3. Children and spouses:
James Jeremy Gadsden, none.
Jonathan Joel Gadsden, none.
4. Parents:
James David Gadsden (deceased).
Hazel Gaines Gadsden (deceased).
5. Grandparents:
Elizabeth Gaines (deceased).
Charlotte Morgan (deceased).
6. Brothers and spouses:
Glenn and Valerie Gadsden, none.
Allen Carl Gadsden, none.
David Bernard Gadsden, none.
7. Sisters and spouses:
Genita Elizabeth Hanna, none.
Benjamin Hanna, none.

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*Michael Klosson, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cyprus.
Nominee: Michael Klosson.
Post: American Embassy Cyprus.
The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.
Contributions, amount, date, donee:
1. Self, Michael Klosson, none.
2. Spouse, Bonita Bender-Klosson, none.
3. Children and Spouses:
Emily Klosson, none.
Karen Klosson, none.
4. Parents:
Boris H. Klosson (deceased), none.
Harriet F. C. Klosson, none.
5. Grandparents:
Michael Mathew Klosson (deceased), none.
Keneena Hansen Klosson (deceased), none.
Charles Steele Cheston (deceased), none.
6. Brothers and Spouses:
Charles S.C. Klosson, none.
Christopher Klosson, none.
7. Sisters and Spouse:
Harriet F. C. Klosson DiCicco, none.
Stephen DiCicco, none.
*Randolph Bell, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, for the rank of Ambassador during his tenure of service as Special Envoy for Holocaust Issues.
*Mark Sullivan, of Maryland, to be United States Director of the European Bank for Reconstruction and Development.
*Paul William Speltz, of Texas, to be United States Director of the Asian Development Bank, with the rank of Ambassador.
*Kenneth Y. Tomlinson, of Virginia, to be a Member of the Broadcasting Board of Governors for a term expiring August 13, 2004.
*Kenneth Y. Tomlinson, of Virginia, to be Chairman of the Broadcasting Board of Governors.
*Norman J. Pattiz, of California, to be a Member of the Broadcasting Board of Governors for a term expiring August 13, 2004.
*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Ms. CANTWELL (for herself, Mr. WARNER, Mr. CHAFEE, Mr. CLELAND, Mr. ROCKEFELLER, and Mr. BINGAMAN):
S. 2790. A bill to provide lasting protection for inventoried roadless areas within the National Forest System; to the Committee on Energy and Natural Resources.

By Mr. DOMENICI (for himself and Mr. FEINGOLD):
S. 2791. A bill to provide budget discipline and enforcement for fiscal year 2003 and beyond; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. LEVIN:
S. 2792. A bill to amend the Solid Waste Disposal Act to authorize the Administrator of the Environmental Protection Agency to carry out certain authorities relating to the importation of municipal solid waste under the Agreement Concerning the Transboundary Movement of Hazardous Waste between the United States and Canada; to the Committee on Environment and Public Works.

By Mr. ENSIGN:
S. 2793. A bill to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system; to the Committee on the Judiciary.

By Mr. GRAMM (for himself, Mr. MILLER, and Mr. MCCONNELL):
S. 2794. A bill to establish a Department of Homeland Security, and for other purposes; to the Committee on Governmental Affairs.

By Mr. KERRY:
S. 2795. A bill to amend title XVIII of the Social Security Act to provide for payment under the prospective payment system for hospital outpatient department services under the medicare program for new drugs administered in such departments as soon as the drugs administered in such departments as soon as the drug is approved for marketing by the Commissioner of Food and Drugs; to the Committee on Finance.

By Mr. LUGAR (for himself, Mr. BREAUX, Mr. CHAFEE, Mr. GRASSLEY, Mr. NICKLES, Mr. GRAHAM, Mr. HAGEL, Mr. SPECTER, Mr. HATCH, and Mr. COCHRAN):
S. 2796. A bill to authorize the negotiation of a free trade agreement with Uruguay; to the Committee on Finance.

By Ms. MIKULSKI:
S. 2797. An original bill making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2003, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. DURBIN (for himself and Mr. LEAHY):
S. 2798. A bill to protect employees and retirees from corporate practices that deprive them of their earnings and retirement savings when a business files for bankruptcy under title 11, United States Code; to the Committee on the Judiciary.

By Mr. MCCAIN:
S. 2799. A bill to provide for the use of and distribution of certain funds awarded to the Gila River Pima-Maricopa Indian Community, and for other purposes; to the Committee on Indian Affairs.

By Mr. BAUCUS (for himself, Mr. BURNS, Mr. DASCHLE, and Mr. JOHNSON):
S. 2800. A bill to provide emergency disaster assistance to agricultural producers; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. KOHL:
S. 2801. An original bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2003, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. KENNEDY:
S.J. Res. 42. A joint resolution commending Sail Boston for its continuing advancement of the maritime heritage of nations, its commemoration of the nautical history of the United States, and its promotion, encouragement, and support of young cadets through training ;to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. THURMOND:
S. Res. 305. A resolution designating the week beginning September 15, 2002, as ''National Historically Black Colleges and Universities Week''; to the Committee on the Judiciary.

By Mr. BROWNBACK (for himself, Mr. WYDEN, Ms. COLLINS, Mr. DORGAN, Mr. GRASSLEY, Mr. CONRAD, Mr. SMITH of New Hampshire, and Mrs. BOXER):
S. Res. 306. A resolution expressing the sense of the Senate concerning the continuous repression of freedoms within Iran and of individual human rights abuses, particularly with regard to women; to the Committee on Foreign Relations.

By Mr. INOUYE:
S. Con. Res. 131. A concurrent resolution designating the month of November 2002, as ''National Military Family Month''; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 683

At the request of Mr. SANTORUM, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 683, a bill to amend the Internal Revenue Code of 1986 to allow individuals a refundable credit against income tax for the purchase of private health insurance, and to establish State health insurance safety-net programs.

S. 1350

At the request of Mr. DAYTON, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 1350, a bill to amend the title XVIII of the Social Security Act to provide payment to medicare ambulance suppliers of the full costs of providing such services, and for other purposes.

S. 1785

At the request of Mr. CLELAND, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 1785, a bill to urge the President to establish the White House Commission on National Military Appreciation Month, and for other purposes.

S. 1931

At the request of Mr. LIEBERMAN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1931, a bill to amend title XVIII of the Social Security Act to improve patient access to, and utilization of, the colorectal cancer screening benefit under the medicare program.

S. 2239

At the request of Mr. SARBANES, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 2239, a bill to amend the National Housing Act to simplify the downpayment requirements for FHA mortgage insurance for single family homebuyers.

S. 2554

At the request of Mr. SMITH of New Hampshire, the names of the Senator from Virginia (Mr. ALLEN), the Senator from Virginia (Mr. WARNER) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 2554, a bill to amend title 49, United States Code, to establish a program for Federal flight deck officers, and for other purposes.

S. 2572

At the request of Mr. KERRY, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 2572, a bill to amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodation in employment, and for other purposes.

S. 2637

At the request of Mr. CONRAD, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 2637, a bill to amend the Internal Revenue Code of 1986 and the Surface Mining Control and Reclamation Act of 1977 to protect the health benefits of retired miners and to restore stability and equity to the financing of the United Mine Workers of America Combined Benefit Fund and 1992 Benefit Plan by providing additional sources of revenue to the Fund and Plan, and for other purposes.

S. 2674

At the request of Mr. BROWNBACK, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 2674, a bill to improve access to health care medically underserved areas.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. CANTWELL (for herself, Mr. WARNER, Mr. CHAFEE, Mr. CLELAND, Mr. ROCKEFELLER, and Mr. BINGAMAN):

S. 2790. A bill to provide lasting protection for inventoried roadless areas within the National Forest System; to the Committee on Energy and Natural Resources.

Mr. WARNER. Madam President, I rise today to join with my colleague from Washington, Senator CANTWELL, to ensure that the remaining, undisturbed areas within our National Forest system are permanently preserved.

Like many of my colleagues, I have worked with the Forest Service and participated in the public comment process on the development of the current Roadless Area Conservation Rule. This administrative procedure was several years in the making with extensive public outreach of public hearings across the country. Thousands of Americans voiced support for protecting these areas from road building and other development.

For my part, this legislation today continues efforts I have undertaken with my colleagues from the Southeast to protect the existing roadless areas in the Southern Appalachia forests. In 1997 I urged the Secretary of Agriculture to impose a moratorium on new road construction in these inventoried roadless areas. Last year, I urged President Bush to embrace and implement this important resource conservation policy. I was very encouraged that the President announced his administration's support for this rule on May 4, 2001.

Today, with this rule under legal challenge, I believe that it is important to take another step forward with ensuring that this rule is codified so that it has the full force of law. While some may advocate changes to the current rule to gain advantages for greater use or greater restrictions on these inventoried roadless areas, I want to assure my colleagues that our legislation today mirrors the current rule. With the extensive efforts of the Forest Service to analyze the impact of the rule and the large number of public comments in support, we must stay true to this effort.

The devastating fires on Forest Service lands in the West this summer have renewed our commitment to programs to reduce the fuel load on forest lands. I support Sen. Domenici's initiatives to redirect Forest Service funding of fuel reduction projects in areas adjoining residential areas, and remain committed to giving the Forest Service all of the tools it needs to reduce the loss of life and property from fires.

An important reason for my support today is because I am convinced that the Roadless Rule does not prevent the Forest Service from undertaking any fire prevention activities in roadless areas. Nor, when a fire exists, does the rule prevent the Forest Service from taking any appropriate action, including building roads in roadless areas, to create fire breaks or other means to control a wildfire.

But, Mr. President, there must be no doubt on this important issue. For that reason, we have provided further clarification that the Forest Service has every authority to prevent fires or to respond to fires, and to use appropriated funds to undertake fire suppression activities in roadless areas.

This rule is a balanced approach to forest service management because it provides for reasonable exceptions for activities in roadless areas. I remain committed to the multiple-use management of our national forests. Timber and mineral resources on these public lands are assets that should be appropriately utilized and available for all Americans. My view of multiple-use management also recognizes and advances the recreational and environmental assets of these roadless areas.

The remaining roadless areas in our national forests are important for providing outstanding recreational opportunities for the public. These lands also provide wildlife habitat and protect the water quality of many watersheds that serve as downstream drinking water sources for our communities.

The Roadless Area Conservation rule is also sound fiscal policy for our national forests. The Forest Service has documented an $8.4 billion backlog in maintaining existing roads within our national forests. Continuing to build new roads in these fragile areas will only further strain the scarce dollars within the Forest Service.

As I have indicated, the legislation we are introducing today does not change the substance or spirit of the Roadless rule in any way. To be clear, this legislation preserves the exemptions in the rule to allow for road construction where needed to protect these lands from floods, fires, and pest infestation. It ensures public access to private lands, and recognizes the existing rights to ongoing oil and gas leases.

For Virginia, this legislation ensures that 394,000 acres of inventoried roadless areas in the George Washington and Jefferson National Forests are permanently protected. During the public comment period on the Draft Environmental Impact Statement, the Forest Service received 68,586 comments from residents of Virginia. The Forest Service advises me that of this amount more than 98 percent of the comments supported full protection of these roadless areas.

I am pleased to support this legislation that is important to all regions of the country. The public has voiced its overwhelming support for this important conservation initiative, and I trust that my colleagues will respond by passing this bill this year.

By Mr. LEVIN:

S. 2792. A bill to amend the Solid Waste Disposal Act to authorize the Administrator of the Environmental Protection Agency to carry out certain authorities relating to the importation of municipal solid waste under the Agreement Concerning the Transboundary Movement of Hazardous Waste between the United

States and Canada; to the Committee on Environment and Public Works.

Mr. LEVIN. Madam President, I am introducing legislation today with Congressman DINGELL that will give a voice to the people of Michigan with regard to the importation of Canadian municipal waste.

Over the past two years, imports from Canada have risen 152 percent and now constitute about half of the imported waste received at Michigan landfills. Currently, approximately 110–130 truckloads of waste come in to Michigan each day from Canada. And this problem isn't going to get any better. These shipments of waste are expected to continue as Toronto and other Ontario sources phase out local disposal sites. On December 4, 2001, the Toronto City Council voted 38–2 to approve a new solid waste disposal contract that would ship an additional 700,000 tons of waste per year to the Carleton Farms landfill in Wayne County, MI, in the near future. In addition, two other Ontario communities that generate hundreds of thousands of tons of waste annually have signed contracts to ship their waste to Carleton Farms.

Based on current usage statistics, the Michigan Department of Environmental Quality estimates that Michigan has capacity for 15–17 years of disposal in landfills. However, with the proposed dramatic increase in the importation of waste, this capacity is less than 10 years. The Michigan Department of Environmental Quality estimates that, for every five years of disposal of Canadian waste at the current usage volume, Michigan is losing a full year of landfill capacity.

We have protections contained in an international agreement with Canada. In 1986, the U.S. and Canada entered into an agreement allowing the shipment of hazardous waste across the U.S./Canadian border for treatment, storage or disposal. In 1992, the two countries decided to add municipal solid waste to the agreement. However, although the Agreement requires notification to the importing country and also allows the importing country to reject shipments, its provisions have not been enforced.

Further, the EPA has said that it would not object to municipal waste shipments. We believe that in order to protect the health and welfare of the citizens of Michigan and their environment, the impact of the importation on State and local recycling efforts, landfill capacity, air emissions and road deterioration resulting from increased vehicular traffic and public health and the environment should all be considered. The shipments should be rejected by the EPA.

Canada could not export waste to Michigan without the Agreement, but the U.S. refuses to implement the provisions that would protect the people of Michigan. We believe that the EPA has the authority to enforce this Agreement, but this legislation would put additional pressure on the EPA to enforce it.

By Mr. KERRY:

S. 2795. A bill to amend title XVIII of the Social Security Act to provide for payment under the prospective payment system for hospital outpatient department services under the medicare program for new drugs administered in such departments as soon as the drugs administered in such departments as soon as the drug is approved for marketing by the Commissioner of Food and Drugs; to the Committee on Finance.

Mr. KERRY. Madam President, I am pleased to introduce legislation today that will fix a flaw in Medicare's claims processing system that currently denies thousands of cancer patients timely access to lifesaving treatments. This legislation will ensure that administrative delays do not force Americans with cancer to wait to be treated with existing innovative drug therapies that stand to improve and prolong their lives.

The Food and Drug Administration, FDA, recently granted fast track authority to a new class of cancer therapies. These therapies, which combine immunotherapy and radiological treatments, offer promise and hope for many cancer patients. Under current Medicare policy, however, reimbursement for FDA-approved drugs in an outpatient setting does not begin until Medicare issues a billing code for the drug. Consequently, there is often a delay of several months between FDA approval of and patient access to a drug.

Prior to the designation of a Medicare billing code, doctors will not prescribe innovative treatments for patients in an outpatient setting for fear of their being denied reimbursement by Medicare. However, within the inpatient setting, Medicare will reimburse hospitals immediately after FDA approval. Given this discrepancy in current policy, I am introducing legislation that will allow doctors to submit claims retroactively and require Medicare to pay for innovative drugs administered in hospital outpatient settings immediately after FDA approval.

Cancer patients cannot afford to wait for drugs that have the potential to improve their health and even save their lives. For Americans battling cancer, time is of the essence. This legislation will provide cancer patients with both the hope and the opportunity to live longer and healthier lives. I urge my colleagues to join me in support of this legislation.

By Mr. LUGAR (for himself, Mr. BREAUX, Mr. CHAFEE, Mr. GRASSLEY, Mr. NICKLES, Mr. GRAHAM, Mr. HAGEL, Mr. SPECTER, Mr. HATCH, and Mr. COCHRAN):

S. 2796. A bill to authorize the negotiation of a free trade agreement with Uruguay; to the Committee on Finance.

Mr. LUGAR. Madam President, I rise today to introduce legislation authorizing President Bush and his Administration to negotiate a free trade agreement with Uruguay. I am pleased to be joined by the following co-sponsors: Senators BREAUX, CHAFEE, GRASSLEY, NICKLES, GRAHAM, HAGEL, SPECTER, HATCH, and COCHRAN.

President Bush has instructed U.S. Trade Representative, Robert Zoellick, to pursue a Free Trade Area of the Americas. I support this effort and this bill is not intended to compete with or replace that important undertaking. Instead, this legislation seeks to highlight the important relationship the U.S. enjoys with Uruguay and promote the need for extending free-trade to South America.

Uruguayan economic reforms focused on the attraction of foreign trade and capital have proven successful. The economy of Uruguay grew steadily until low commodity prices and economic difficulties in export markets caused a recession in 1999. President Jorge Batlle has stated his intention to continue the promotion of economic growth, international trade, lower tariffs, and attracting foreign investment. More than one hundred U.S.-owned companies operate in Uruguay, and many more market U.S. goods and services.

Uruguay is a member of the World Trade Organization and a dynamic member of the Southern Cone Common Market, MERCOSUR, with Argentina, Brazil, and Paraguay. Furthermore, it is an active participant and proponent of the Free Trade Area of the Americas process and is coordinator of the e-commerce group and sub-coordinator of the agricultural subsidies group.

If the United States hopes to sustain its economic strength in the 21st Century, we must participate in an expanding global economy. We must aggressively pursue opportunities in new and emerging markets. We must maintain our technological and competitive advantage and sell our products, services and agricultural commodities in these areas. American agriculture, telecommunications, computer services, and other sectors will benefit from the opportunity to compete in Uruguay under a free trade agreement.

As South America continues to recover from the Argentinian economic crisis we must look for opportunities to engage the region in free trade. A free trade agreement with Uruguay would provide American business with unfettered access to another lucrative market and Uruguayan business will have better access to American markets to successfully weather the region's economic fallout. A U.S.-Uruguayan free trade agreement is a win-win for the United States and Uruguay.

I am hopeful the Senate will approve this important legislation in the near future.

By Mr. MCCAIN:

S. 2799. A bill to provide for the use of and distribution of certain funds

awarded to the Gila River Pima-Maricopa Indian Community, and for other purposes; to the Committee on Indian Affairs.

Mr. MCCAIN. Madam President, I rise to introduce legislation to authorize the distribution of judgement funds to eligible tribal members of the Gila River Indian Community in Arizona. Representative HAYWORTH recently introduced companion legislation in the House of Representatives.

The Gila River Indian Community Judgement Fund Distribution Act resolves two half-century old claims by the Gila River tribe against the United States for failure to meet Federal obligations to protect the Community's use of water from the Gila River and Salt River in Arizona. The original complaint was filed before the Indian Claims Commission on August 8, 1951. In 1982, the United States Court of Claims confirmed liability of the United States to the Community, and recently the settlement of these two claims was determined to be seven million dollars.

So much time has passed that the Indian Claims Commission formerly in charge of fund distributions no longer exists. However, a debt does not disappear. The judgement award has since been transferred from the Indian Claims Commission to a trust account on behalf of the Community, managed by the Office of Trust Management at the Department of Interior.

This judgement award was certified by the Treasury Department on October 6, 1999 for the final portion of the litigation to the two remaining dockets of the Gila River Indian Community. Since that time, the Community has been working with the BIA in an attempt to finalize a use and distribution plan to submit to Congress for approval. As outlined in its plan, the Community has decided to distribute the judgement award equally to eligible tribal members.

I ask unanimous consent to print the tribal resolution approved by the Gila River Indian Community in support of this payment plan in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

GILA RIVER INDIAN COMMUNITY, SACATON, AZ

Resolution GR–30–01—a resolution to approve a payment plan for the distribution of funds awarded under dockets 236–C and 236–D

Whereas, the Gila River Indian Community (the ''Community'') and the United States have been involved in litigation regarding Docket 236 since August 8, 1951 and two of the original fourteen dockets, Docket 236–C and Docket 236–D, remain to be resolved as to distribution;

Whereas, Docket 236–C sought monetary compensation from the United States for its failure to engage in fair and honorable dealings through failure to carry out its obligation to protect the Community's use of water from the Gila River;

Whereas, Docket 236–D sought monetary compensation from the United States for its failure to engage in fair and honorable dealings through failure to carry out its obligations to protect the Community's use of water from the Salt River;

Whereas, in Gila River Pima-Maricopa Indian Community v. U.S. 29 Ind. Cl.Comm. 144. (1972), the Indian Claims Commission held that the United States, as trustee, was liable towards its beneficiary, the Community, as to the Docket 236–C claims:

Whereas, in Gila River Pima-Maricopa Indian Community v. U.S., 684 F.2d 852 (1982), the United States Court of Claims held that the United States, as trustee, was liable toward its beneficiary, the Community, as to the Docket 236–D claims;

Whereas, with approval by the Community under Resolution GR–98–98, the Community entered into a settlement of Docket 236–C and Docket 236–D with the United States on April 27, 1999 regarding the amount of liability for the sum of Seven Million Dollars ($7,000,000.00);

Whereas, on May 5, 1999, the United States certified the judgment for the Community, which allowed payment to be made into the trust account on behalf of the Gila River Indian Community and which such payment was made into the trust account managed by the Office of Trust Funds Management in Albuquerque, New Mexico and is accruing interest;

Whereas, the Indian Judgment Funds Act of October 19, 1973, 87 Stat. 466, as amended and implemented by 25 CFR Part 87, requires the Secretary of the Interior to submit a plan of distribution for docket funds to the United States Congress; and

Whereas, the Community had developed the attached plan of distribution, entitled ''Plan for the Use of the Gila River Indian Community Indian Judgment Funds in Docket 236–C and Docket 236–D before the United States Court of Federal Claims'' (the ''Plan of Distribution''), to be submitted to the Secretary of the Interior for consideration and approval. Now, therefore be it

Resolved, That the Gila River Indian Community Council adopts and approves the attached Plan of Distribution, be it further

Resolved, That the Governor, or in the Governor's absence the Lieutenant Governor, is authorized and directed to submit the attached Plan of Distribution to the Secretary of the Interior for approval, be it finally

Resolved, That the Governor, or in the Governor's absence the Lieutenant Governor, is authorized and directed to execute and sign necessary documents to fulfill the intent of this Resolution.

The purpose of this legislation is to comply with Federal regulations which requires congressional approval for distribution of judgment funds to tribal members. The terms of the legislation reflect an agreement by all parties for a distribution plan for final approval by the Congress. As part of this legislation, the BIA is also seeking to resolve remaining expert assistance loans by the Gila River Indian Community, the Oglala Sioux Tribe, and the Seminole Tribe of Florida, as originally authorized by the Indian Claims Commission.

Members of the Gila River Indian Community have waited half a century for final resolution of all their legal claims regarding this matter. After considerable delay, it is only fair to resolve this matter and provide compensation as soon as possible. With the short time remaining in this session, I hope that the Senate will act quickly to move this legislation through the process.

I ask unanimous consent to print the text of the bill and a section-by-section summary in the RECORD.

There being no objection, the additional material was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Gila River Indian Community Judgment Fund Distribution Act of 2002''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. FINDINGS.

Congress finds that—

(1) on August 8, 1951, the Gila River Indian Community filed a complaint before the Indian Claims Commission in Gila River Pima-Maricopa Indian Community v. United States, Docket No. 236, for the failure of the United States to carry out its obligation to protect the use by the Community of water from the Gila River and the Salt River in the State of Arizona;

(2) except for Docket Nos. 236–C and 236–D, which remain undistributed, all 14 original dockets under Docket No. 236 have been resolved and distributed;

(3) in Gila River Pima-Maricopa Indian Community v. United States, 29 Ind. Cl. Comm. 144 (1972), the Indian Claims Commission held that the United States, as trustee, was liable to the Community with respect to the claims made in Docket No. 236–C;

(4) in Gila River Pima-Maricopa Indian Community v. United States, 684 F.2d 852 (1982), the United States Claims Court held that the United States, as trustee, was liable to the Community with respect to the claims made in Docket No. 236–D;

(5) with the approval of the Community under Community Resolution GR–98–98, the Community entered into a settlement with the United States on April 27, 1999, for claims made under Dockets Nos. 236–C and 236–D for an aggregate total of $7,000,000;

(6) on May 3, 1999, the United States Court of Federal Claims ordered that a final judgment be entered in consolidated Dockets Nos. 236–C and 236–D for $7,000,000 in favor of the Community and against the United States;

(7)(A) on October 6, 1999, the Department of the Treasury certified the payment of $7,000,000, less attorney fees, to be deposited in a trust account on behalf of the Community; and

(B) that payment was deposited in a trust account managed by the Office of Trust Funds Management of the Department of the Interior; and

(8) in accordance with the Indian Tribal Judgment Funds Use or Distribution Act (25

U.S.C. 1401 et seq.), the Secretary is required to submit an Indian judgment fund use or distribution plan to Congress for approval.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADULT.—The term ''adult'' means an individual who—

(A) is 18 years of age or older as of the date on which the payment roll is approved by the Community; or

(B) will reach 18 years of age not later than 30 days after the date on which the payment roll is approved by the Community.

(2) COMMUNITY.—The term ''Community'' means the Gila River Indian Community.

(3) COMMUNITY-OWNED FUNDS.—The term ''Community-owned funds'' means—

(A) funds held in trust by the Secretary as of the date of enactment of this Act that may be made available to make payments under section 101; or

(B) revenues held by the Community that are derived from Community-owned enterprises.

(4) IIM ACCOUNT.—The term ''IIM account'' means an individual Indian money account.

(5) JUDGMENT FUNDS.—The term ''judgment funds'' means the aggregate amount awarded to the Community by the Court of Federal Claims in Dockets Nos. 236–C and 236–D.

(6) LEGALLY INCOMPETENT INDIVIDUAL.—The term ''legally incompetent individual'' means an individual who has been determined to be incapable of managing his or her own affairs by a court of competent jurisdiction.

(7) MINOR.—The term ''minor'' means an individual who is not an adult.

(8) PAYMENT ROLL.—The term ''payment roll'' means the list of eligible, enrolled members of the Community who are eligible to receive a payment under section 101(a), as prepared by the Community under section 101(b).

(9) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

TITLE I—GILA RIVER JUDGMENT FUND DISTRIBUTION

SEC. 101. DISTRIBUTION OF JUDGMENT FUNDS.

(a) PER CAPITA PAYMENTS.—Notwithstanding the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.) or any other provision of law (including any regulation promulgated or plan developed under such a law), the amounts paid in satisfaction of an award granted to the Gila River Indian Community in Dockets Nos. 236–C and 236–D before the United States Court of Federal Claims, less attorney fees and litigation expenses and including all accrued interest, shall be distributed in the form of per capita payments (in amounts as equal as practicable) to all eligible enrolled members of the Community.

(b) PREPARATION OF PAYMENT ROLL.—

(1) IN GENERAL.—The Community shall prepare a payment roll of eligible, enrolled members of the Community that are eligible to receive payments under this section in accordance with the criteria described in paragraph (2).

(2) CRITERIA.—

(A) INDIVIDUALS ELIGIBLE TO RECEIVE PAYMENTS.—Subject to subparagraph (B), the following individuals shall be eligible to be listed on the payment roll and eligible to receive a per capita payment under subsection (a):

(i) All enrolled Community members who are eligible to be listed on the per capita payment roll that was approved by the Secretary for the distribution of the funds awarded to the Community in Docket No. 236–N (including any individual who was inadvertently omitted from that roll).

(ii) All enrolled Community members who are living on the date of enactment of this Act.

(iii) All enrolled Community members who died—

(I) after the effective date of the payment plan for Docket No. 236–N; but

(II) on or before the date of enactment of this Act.

(B) INDIVIDUALS INELIGIBLE TO RECEIVE PAYMENTS.—The following individuals shall be ineligible to be listed on the payment roll and ineligible to receive a per capita payment under subsection (a):

(i) Any individual who, before the date on which the Community approves the payment roll, relinquished membership in the Community.

(ii) Any minor who relinquishes membership in the Community, or whose parent or legal guardian relinquishes membership on behalf of the minor, before the date on which the minor reaches 18 years of age.

(iii) Any individual who is disenrolled by the Community for just cause (such as dual enrollment or failure to meet the eligibility requirements for enrollment).

(iv) Any individual who is determined or certified by the Secretary to be eligible to receive a per capita payment of funds relating to a judgment—

(I) awarded to another community, Indian tribe, or tribal entity; and

(II) appropriated on or before the date of enactment of this Act.

(v) Any individual who is not enrolled as a member of the Community on or before the date that is 90 days after the date of enactment of this Act.

(c) NOTICE TO SECRETARY.—On approval by the Community of the payment roll, the Community shall submit to the Secretary a notice that indicates the total number of individuals eligible to share in the per capita distribution under subsection (a), as expressed in subdivisions that reflect—

(1) the number of shares that are attributable to eligible living adult Community members; and

(2) the number of shares that are attributable to deceased individuals, legally incompetent individuals, and minors.

(d) INFORMATION PROVIDED TO SECRETARY.—The Community shall provide to the Secretary enrollment information necessary to allow the Secretary to establish—

(1) estate accounts for deceased individuals described in subsection (c)(2); and

(2) IIM accounts for legally incompetent individuals and minors described in subsection (c)(2).

(e) DISBURSEMENT OF FUNDS.—

(1) IN GENERAL.—Not later than 30 days after the date on which the payment roll is approved by the Community and the Community has reconciled the number of shares that belong in each payment subdivision described in subsection (c), the Secretary shall disburse to the Community the funds necessary to make the per capita distribution under subsection (a) to eligible living adult members of the Community described in subsection (c)(1).

(2) ADMINISTRATION AND DISTRIBUTION.—On disbursement of the funds under paragraph (1), the Community shall bear sole responsibility for administration and distribution of the funds.

(f) SHARES OF DECEASED INDIVIDUALS.—

(1) IN GENERAL.—The Secretary, in accordance with regulations promulgated by the Secretary and in effect as of the date of enactment of this Act, shall distribute to the appropriate heirs and legatees of deceased individuals described in subsection (c)(2) the per capita shares of those deceased individuals.

(2) ABSENCE OF HEIRS AND LEGATEES.—If the Secretary and the Community make a final determination that a deceased individual described in subsection (c)(2) has no heirs or legatees, the per capita share of the deceased individual and the interest earned on that share shall—

(A) revert to the Community; and

(B) be deposited into the general fund of the Community.

(g) SHARES OF LEGALLY INCOMPETENT INDIVIDUALS.—

(1) IN GENERAL.—The Secretary shall deposit the shares of legally incompetent individuals described in subsection (c)(2) in supervised IIM accounts.

(2) ADMINISTRATION.—The IIM accounts described in paragraph (1) shall be administered in accordance with regulations and procedures established by the Secretary and in effect as of the date of enactment of this Act.

(h) SHARES OF MINORS.—

(1) IN GENERAL.—The Secretary shall deposit the shares of minors described in subsection (c)(2) in supervised IIM accounts.

(2) ADMINISTRATION.—

(A) IN GENERAL.—The Secretary shall hold the per capita share of a minor described in subsection (c)(2) in trust until such date as the minor reaches 18 years of age.

(B) NONAPPLICABLE LAW.—Section 3(b)(3) of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1403(b)(3)) shall not apply to any per capita share of a minor that is held by the Secretary under this Act.

(C) DISBURSEMENT.—No judgment funds, nor any interest earned on judgment funds, shall be disbursed from the account of a minor described in subsection (c)(2) until such date as the minor reaches 18 years of age.

(i) PAYMENT OF ELIGIBLE INDIVIDUALS NOT LISTED ON PAYMENT ROLL.—

(1) IN GENERAL.—An individual who is not listed on the payment roll, but is eligible to receive a payment under this Act, as determined by the Community, may be paid from any remaining judgment funds after the date on which—

(A) the Community makes the per capita distribution under subsection (a); and

(B) all appropriate IIM accounts are established under subsections (g) and (h).

(2) INSUFFICIENT FUNDS.—If insufficient judgment funds remain to cover the cost of a payment described in paragraph (1), the Community may use Community-owned funds to make the payment.

(3) MINORS, LEGALLY INCOMPETENT INDIVIDUALS, AND DECEASED INDIVIDUALS.—In a case in which a payment described in paragraph (2) is to be made to a minor, a legally incompetent individual, or a deceased individual, the Secretary—

(A) is authorized to accept and deposit funds from the payment in an IIM account or estate account established for the minor, legally incompetent individual, or deceased individual; and

(B) shall invest those funds in accordance with applicable law.

(j) USE OF RESIDUAL FUNDS.—On request by the Community, any judgment funds remaining after the date on which the Community completes the per capita distribution under subsection (a) and makes any appropriate payments under subsection (i) shall be disbursed to, and deposited in the general fund of, the Community.

(k) NONAPPLICABILITY OF CERTAIN LAW.—Notwithstanding any other provision of law, the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) shall not apply to Community-owned funds used by the Community to make payments under subsection (i).

SEC. 102. RESPONSIBILITY OF SECRETARY; APPLICABLE LAW.

(a) RESPONSIBILITY FOR FUNDS—After the date on which funds are disbursed to the Community under section 101(e)(1), the United States and the Secretary shall have

no trust responsibility for the investment, supervision, administration, or expenditure of the funds disbursed.

(b) DECEASED AND LEGALLY INCOMPETENT INDIVIDUALS.—Funds subject to subsections (f) and (g) of section 101 shall continue to be held in trust by the Secretary until the date on which those funds are disbursed under this Act.

(c) APPLICABILITY OF OTHER LAW.—Except as otherwise provided in this Act, all funds distributed under this Act shall be subject to sections 7 and 8 of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1407, 1408).

TITLE II—CONDITIONS RELATING TO COMMUNITY JUDGMENT FUND PLANS

SEC. 201. PLAN FOR USE AND DISTRIBUTION OF JUDGMENT FUNDS AWARDED IN DOCKET NO. 228.

(a) DEFINITION OF PLAN.—In this section, the term ''plan'' means the plan for the use and distribution of judgment funds awarded to the Community in Docket No. 228 of the United States Claims Court (52 Fed. Reg. 6887 (March 5, 1987)), as modified in accordance with Public Law 99–493 (100 Stat. 1241).

(b) CONDITIONS.—Notwithstanding any other provision of law, the Community shall modify the plan to include the following conditions with respect to funds distributed under the plan:

(1) APPLICABILITY OF OTHER LAW RELATING TO MINORS.—Section 3(b)(3) of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1403(b)(3)) shall not apply to any per capita share of a minor that is held, as of the date of enactment of this Act, by the Secretary.

(2) SHARE OF MINORS IN TRUST.—The Secretary shall hold a per capita share of a minor described in paragraph (1) in trust until such date as the minor reaches 18 years of age.

(3) DISBURSAL OF FUNDS FOR MINORS.—No judgment funds, nor any interest earned on judgment funds, shall be disbursed from the account of a minor described in paragraph (1) until such date as the minor reaches 18 years of age.

(4) USE OF REMAINING JUDGMENT FUNDS.—On request by the governing body of the Community, as manifested by the appropriate tribal council resolution, any judgment funds remaining after the date of completion of the per capita distribution under section 101(a) shall be disbursed to, and deposited in the general fund of, the Community.

SEC. 202. PLAN FOR USE AND DISTRIBUTION OF JUDGMENT FUNDS AWARDED IN DOCKET NO. 236–N.

(a) DEFINITION OF PLAN.—In this section, the term ''plan'' means the plan for the use and distribution of judgment funds awarded to the Community in Docket No. 236–N of the United States Court of Federal Claims (59 Fed. Reg. 31092 (June 16, 1994)).

(b) CONDITIONS.—

(1) PER CAPITA ASPECT.—Notwithstanding any other provision of law, the Community shall modify the last sentence of the paragraph under the heading ''Per Capita Aspect'' in the plan to read as follows: ''Upon request from the Community, any residual principal and interest funds remaining after the Community has declared the per capita distribution complete shall be disbursed to, and deposited in the general fund of, the Community.''.

(2) GENERAL PROVISIONS.—Notwithstanding any other provision of law, the Community shall—

(A) modify the third sentence of the first paragraph under the heading ''General Provisions'' of the plan to strike the word ''minors''; and

(B) insert between the first and second paragraphs under that heading the following: ''Section 3(b)(3) of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1403(b)(3)) shall not apply to any per capita share of a minor that is held, as of the date of enactment of the Gila River Indian Community Judgment Fund Distribution Act of 2002, by the Secretary. The Secretary shall hold a per capita share of a minor in trust until such date as the minor reaches 18 years of age. No judgment funds, or any interest earned on judgment funds, shall be disbursed from the account of a minor until such date as the minor reaches 18 years of age.''.

TITLE III—EXPERT ASSISTANCE LOANS

SEC. 301. WAIVER OF REPAYMENT OF EXPERT ASSISTANCE LOANS TO CERTAIN INDIAN TRIBES.

(a) GILA RIVER INDIAN COMMUNITY.—Notwithstanding any other provision of law—

(1) the balance of all outstanding expert assistance loans made to the Community under Public Law 88–168 (77 Stat. 301) and relating to Gila River Indian Community v. United States (United States Court of Federal Claims Docket Nos. 228 and 236 and associated subdockets) are canceled; and

(2) the Secretary shall take such action as is necessary—

(A) to document the cancellation of loans under paragraph (1); and

(B) to release the Community from any liability associated with those loans.

(b) OGLALA SIOUX TRIBE.—Notwithstanding any other provision of law—

(1) the balances of all outstanding expert assistance loans made to the Oglala Sioux Tribe under Public Law 88–168 (77 Stat. 301) and relating to Oglala Sioux Tribe v. United States (United States Court of Federal Claims Docket No. 117 and associated subdockets) are canceled; and

(2) the Secretary shall take such action as is necessary—

(A) to document the cancellation of loans under paragraph (1); and

(B) to release the Oglala Sioux Tribe from any liability associated with those loans.

(c) SEMINOLE NATION OF OKLAHOMA.—Notwithstanding any other provision of law—

(1) the balances of all outstanding expert assistance loans made to the Seminole Nation of Oklahoma under Public Law 88–168 (77 Stat. 301) and relating to Seminole Nation v. United States (United States Court of Federal Claims Docket No. 247) are canceled; and

(2) the Secretary shall take such action as is necessary—

(A) to document the cancellation of loans under paragraph (1); and

(B) to release the Seminole Nation of Oklahoma from any liability associated with those loans.

SECTION-BY-SECTION ANALYSIS—GILA RIVER INDIAN COMMUNITY-JUDGEMENT FUND USE AND DISTRIBUTION LEGISLATION

TITLE I: GILA RIVER JUDGEMENT FUND DISTRIBUTION

SECTION 101: DISTRIBUTION OF JUDGEMENT FUNDS.

(a) Per Capita Payments. Authorizes distribution of judgement fund amount, less attorneys fees and litigation expenses, including all accrued interest, to all eligible enrolled members of the Community on a per capita basis.

(b) Preparation of Payment Roll. Requires the Community to prepare the payment roll of eligible enrolled members according to specific criteria, and includes description of individuals who shall be deemed ineligible to receive per capita payment.

(c) Notice to Secretary. Requires the Community to notify the Secretary of Interior of the total number of individuals eligible to share in the per capita distribution after the Community's preparation of the payment roll.

(d) Information Provided to Secretary. Requires the Community to provide the Secretary of Interior with information necessary to allow the Secretary to establish estate accounts for deceased individuals and Individual Indian Money accounts for legally incompetent individuals and minors.

(e) Disbursement of Funds. Requires the Secretary to disburse to the Community the funds necessary to make the per capita payment, not later than 30 days after the payment roll has been approved by the Community and the Community has reconciled the number of shares that belong in each payment category. Provides that once the funds are disbursed to the Community, the Community shall be responsible for administering and distributing the funds.

(f) Shares of Deceased Individuals. Requires the Secretary of Interior to distribute per capita shares of deceased individuals to their heirs and legatees in accordance with existing regulations. Where there are no heirs, provides that funds revert to the Community and shall be deposited in the Community's general fund.

(g) Shares of Legally Incompetent Individuals. Requires the Secretary of Interior to deposit shares of legally incompetent individuals into supervised Individual Indian Money accounts to be administered pursuant to existing regulations.

(h) Shares of Minors. Requires the Secretary of Interior to deposit shares of minors into supervised Individual Indian Management accounts and requires the Secretary to hold the funds in trust until the minor is 18 years of age. Provides that section 3(b)(3) of the Indian Tribal Judgement Funds Act does not apply, the effect of which is to prevent parents and guardians of minors from being able to receive shares on behalf of minors before they turn 18.

(i) Payment of Eligible Individuals Not Listed on Payment Roll. Provides that individuals not listed on payment roll, but eligible for payment, can be paid from any residual principal or interest fund remaining after the Community has made its per capita distribution and the Individual Indian Money accounts have been established. Authorizes the Community to pay these individuals from Community-owned funds if the residual funds are insufficient. Authorizes the Secretary to accept and deposit Community-owned funds into an Individual Indian Money or estate account established for a minor, legal incompetent or deceased beneficiary who is eligible to receive payment, but who was not paid from the judgment fund. Provides that the Secretary shall invest such funds pursuant to existing regulation.

(j) Use of Residual Funds. Provides that if the Community requests it, residual principal and interest funds remaining after the

SECTION 1: SHORT TITLE AND TABLE OF CONTENTS

Short Title: Gila River Indian Community Judgement Fund Distribution Act of 2002; and Table of Contents.

SECTION 2: FINDINGS

Provides factual background regarding the litigation that led to the seven million settlement awarded to Gila River Indian Community for the United States' failure to protect the Community's use of water from the Gila River and Salt River under Dockets 236–C and 236–D of Gila River Pima-Maricopa Indian Community v. United States, filed on August 8, 1951 before the Indian Claims Commission.

SECTION 3: DEFINITIONS

Provides definitions as utilized in the legislation.

Community's per capita distribution is complete shall be disbursed to the Community and deposited into the Community's general fund.

(k) Non-applicability of Certain Law. Provides that the Indian Gaming Regulatory Act shall not apply to Community-owned funds used by the Community to cover shortfalls in funding necessary to make payments to individuals not listed on the payment roll, but determined to be eligible. Added to ensure that the Indian Gaming Regulatory Act's prohibition on distribution of gaming funds as per capita payments would not prevent Community-owned funds, including revenues from gaming, from being used to cover shortfalls.

SECTION 102: RESPONSIBILITY OF SECRETARY; APPLICABLE LAW.

(a) Responsibility For Funds. Provides that after disbursement of funds to Community, the Secretary of Interior shall no longer have trust responsibility for the judgment funds.

(b) Deceased and Legally Incompetent Individuals. Provides that Secretary shall continue to have trust responsibility over funds retained in accounts for deceased beneficiaries and legally incompetent individuals.

(c) Applicability of other Law. Provides that pursuant to sections 7 and 8 of the Indian Tribal Judgment Funds Use or Distribution Act, per capita payments are not taxable to individuals under state or federal law as income.

TITLE II—CONDITIONS RELATING TO COMMUNITY JUDGEMENT FUND PLANS

SECTION 201

Provides definition and conditions of the plan for use and distribution of judgement funds awarded in Docket No. 228. Adds paragraph providing that Indian Tribal Judgement Funds Use and Distribution shall not apply to minors' per capita shares held by the Secretary under the plan (effect is to prevent shares from being distributed to parents and guardians of minors prior to age 18) and that Secretary shall hold the minors' per capita shares in trust until they reach age 18. Also adds paragraph stating that upon Community's request, any residual principal and interest funds remaining after the Community has declared the per capita payment complete shall be distributed to the Community and deposited into the Community's general fund.

SECTION 202

Provides definition and conditions of the plan for use and distribution of judgement funds awarded in Docket No. 236–N. Amends the plan to authorize disbursement of residual principal and interest funds to the Community. Provides that provision of Indian Tribal Judgment Funds Act permitting payment to parents and legal guardians of minors is not applicable, and requires Secretary to hold minors' shares in trust until they turn 18.

TITLE III—EXPERT ASSISTANCE LOANS

SECTION 301

Waiver of repayment of expert assistance loans to certain Indian tribes. Waives repayment of expert assistance loans made by the Department of Interior to Gila River Indian Community, Oglala Sioux Tribe, Pueblo of Santo Domingo, and Seminole Nation of Oklahoma.

By Mr. BAUCUS (for himself, Mr. BURNS, Mr. DASCHLE, and Mr. JOHNSON):

S. 2800. A bill to provide emergency disaster assistance to agricultural producers; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. BAUCUS. Madam President, on March 28, 2002, Secretary Veneman declared Montana a drought disaster. This drought designation came two months earlier than in 2001, and eight months earlier than in 2000.

The unrelenting drought Montana is suffering has brought economic hardship to our agriculture producers and rural communities. In 1996, the year before the drought, Montana received $847 million in cash receipts from wheat sales. In 2001, four years into the drought, Montana received $317 million in cash receipts, a 62 percent decline.

Agriculture is more than 50 percent of my State's economy, and is truly the backbone of my State. The drought not only affects our farmers and ranchers. It is felt throughout our rural communities. Small businesses are being forced to close their doors. Families are moving away to find work. It would be virtually impossible to find a single person who has not been either directly or indirectly affected by the dry conditions that we have.

Without our help, without passing natural disaster assistance, it is estimated that 40 percent of Montana's farmers and ranchers will not qualify for operating loans for the 2002 crop year. A large percentage of these hard-working people will lose their land, their homes, their jobs, and their way of life. They will not be purchasing clothes, seed, feed, fertilizer, or equipment in their local stores. They will have to move, take their kids out of school. Small towns will die.

It is unfortunate that farmers and ranchers from Montana have to suffer the effects of prolonged drought without Federal assistance because disaster was not as wide spread in 2001 as it has been in 2002. The farmers and ranchers who suffered from severe drought in 2001 should not be penalized, rather rewarded for their persistence and dedication to Montana's vital industry. We desperately need cooperation and support from all sides to prove relief to our producers that have struggled through dry conditions for so long. We need disaster assistance immediately and we need to provide extra assistance for those who have endured drought in 2001 and 2002. It is time to take action and to provide for those who have produced so many vital resources for the people of the United States.

I am disappointed that we have not been able to produce legislation that is much needed and long overdue to benefit the hard working farmers and ranchers of the state of Montana and across the country. Many of the agricultural producers in Montana who have worked the same land for generations will no longer be able to survive as farmers or ranchers without disaster relief. Consecutive years of drought have caused economic devastation that soon prevent these agricultural producers from doing their jobs. The effects of this cycle will be devastating to the economy and the people of my state.

Unfortunately natural disaster is no longer an issue for just a few States. As of July 22, forty-nine of 50 States are impacted by drought and 36 percent of our country is currently classified as some level of drought. This is an issue that can no longer be ignored.

I am pleased today to introduce with Senator BURNS a natural disaster package that will provide assistance to producers who have had losses due to natural disasters in 2001 and 2002. It also includes funding for 2001 and 2001 for the Livestock Assistance Program and the American Indian Livestock Feed Program. The package that we introduce today is the same policy that 69 of my Senate Colleagues supported when Senator ENZI and I offered the amendment to the Farm Bill but extended to cover the 2002 crop year as well.

It is true that the U.S. Department of Agriculture has utilized the tools that they have available to them. Access to low interest loans, grazing and haying on CRP acreage are important pieces to ensuring that our producers stay in business. However, there is still one major piece of the puzzle missing and that is natural disaster assistance.

It is also true that crop insurance is a very important risk management tool. I supported the crop insurance reform bill and I support and understand the importance of crop insurance. More than 90 percent of insurable acres in Montana are insured. Unfortunately for the program to be run in an actuarially sound fashion, producers are helped the least when they hurt the most. When a producer is suffering from consecutive years of drought, their premium increases and their coverage decreases.

We have the opportunity to stop that process. To keep our rural communities and economies alive. Rural America is resilient. And like them, I will not give up. Thousands of people are suffering from a relentless drought. They deserve natural disaster assistance and I will continue to fight to ensure they get it.

I am pleased to be working with my fellow Senator from Montana, and I ask each of my Senate colleagues to join us in this effort.

Mr. BURNS. Madam President, I rise today to express my support of the Emergency Disaster Assistance Act of 2002. I am proud to join my colleague from Montana, Senator BAUCUS, in introducing this legislation.

However, more importantly I rise today in support of America's farmers and ranchers. In my home State of Montana, we are looking at our fifth summer of severe drought. Many places in my great State are drying up and blowing away. Dirt fills the ditches alongside the roads and so many tumbleweeds clog the fences. I fear this may be the case for much of the West and Midwest after this summer.

This legislation would provide much needed relief to those farmers and ranchers hit the hardest by the drought. Many have argued the Farm

Bill adequately met the needs of those earning their living in agriculture. I disagree. The Farm Bill provides economic assistance, but not weather related disaster assistance.

In fact, it does not help farmers ''when times are tough,'' and the drought conditions of the past several years indicate that these are indeed very difficult times. The very reason I am requesting drought assistance is precisely because this farm bill does not sufficiently meet the needs of those farmers who have suffered loss due to natural conditions during the past 4 years. I believe the farmers in the most extreme situations are the very ones we should be helping.

I am committed to working with my colleagues to get this much-needed assistance out to our rural areas, to the places that need it the most. I am also committed to doing this in the most responsible way possible. I believe we can reach an agreement and find a realistic amount that helps producers, yet is fiscally responsible.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 305—DESIGNATING THE WEEK BEGINNING SEPTEMBER 15, 2002, AS ''NATIONAL HISTORICALLY BLACK COLLEGES AND UNIVERSITIES WEEK''

Mr. THURMOND submitted the following resolution; which was referred to the Committee on the Judiciary.

S. RES. 305

Whereas there are 105 historically black colleges and universities in the United States;

Whereas black colleges and universities provide the quality education so essential to full participation in a complex, highly technological society;

Whereas black colleges and universities have a rich heritage and have played a prominent role in American history;

Whereas black colleges and universities have allowed many underprivileged students to attain their full potential through higher education; and

Whereas the achievements and goals of historically black colleges and universities are deserving of national recognition: Now, therefore, be it

Resolved,

SECTION 1. DESIGNATION OF NATIONAL HISTORICALLY BLACK COLLEGES AND UNIVERSITIES WEEK.

The Senate—

(1) designates the week beginning September 15, 2002, as ''National Historically Black Colleges and Universities Week''; and

(2) requests that the President of the United States issue a proclamation calling on the people of the United States and interested groups to observe the week with appropriate ceremonies, activities, and programs to demonstrate support for historically black colleges and universities in the United States.

Mr. THURMOND. Madam President, I rise to submit a resolution recognizing the week of September 15–21, 2002 as National Historically Black Colleges and Universities Week. This resolution is an appropriate tribute to the countless academic contributions these institutions of higher education have made throughout this fine Nation and the State of South Carolina.

I am proud to have eight of the 105 Historically Black Colleges located in my home State. They have long provided a quality education that has greatly contributed to our economic and social well-being, and I commend them for a job well done. In addition, these colleges and universities will help lead our country into the future, with programs that prepare their students for our increasingly sophisticated economy. The alumni of these institutions have made many contributions to our Nation and I hope this resolution serves to recognize their achievements as well.

The passage of this resolution reaffirms our support for these institutions. The Resolution requests the President of the United States to issue an appropriate proclamation and calls on the people of the United States to observe the week with ceremonies, activities and programs to demonstrate support for Historically Black Colleges and Universities throughout this Nation.

SENATE RESOLUTION 306—EXPRESSING THE SENSE OF THE SENATE CONCERNING THE CONTINUOUS REPRESSION OF FREEDOMS WITHIN IRAN AND OF INDIVIDUAL HUMAN RIGHTS ABUSES, PARTICULARLY WITH REGARD TO WOMEN

Mr. BROWNBACK (for himself, Mr. WYDEN, Ms. COLLINS, Mr. DORGAN, Mr. GRASSLEY, Mr. CONRAD, Mr. SMITH of New Hampshire, and Mrs. BOXER) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 306

Whereas the people of the United States respect the Iranian people and value the contributions that Iran's culture has made to world civilization for over 3 millennia;

Whereas the Iranian people aspire to democracy, civil, political, and religious rights, and the rule of law, as evidenced by increasingly frequent antigovernment and anti-Khatami demonstrations within Iran and by statements of numerous Iranian expatriates and dissidents;

Whereas Iran is an ideological dictatorship presided over by an unelected Supreme Leader with limitless veto power, an unelected Expediency Council and Council of Guardians capable of eviscerating any reforms, and a President elected only after the aforementioned disqualified 234 other candidates for being too liberal, reformist, or secular;

Whereas the United States recognizes the Iranian peoples' concerns that President Muhammad Khatami's rhetoric has not been matched by his actions;

Whereas President Khatami clearly lacks the ability and inclination to change the behavior of the State of Iran either toward the vast majority of Iranians who seek freedom or toward the international community;

Whereas political repression, newspaper censorship, corruption, vigilante intimidation, arbitrary imprisonment of students, and public executions have increased since President Khatami's inauguration in 1997;

Whereas men and women are not equal under the laws of Iran and women are legally deprived of their basic rights;

Whereas the Iranian government shipped 50-tons of sophisticated weaponry to the Palestinian Authority despite Chairman Arafat's cease-fire agreement, consistently seeks to undermine the Middle East peace process, provides safe-haven to al-Qa'ida and Taliban terrorists, allows transit of arms for guerrillas seeking to undermine our ally Turkey, provides transit of terrorists seeking to destabilize the United States-protected safe-haven in Iraq, and develops weapons of mass destruction;

Whereas since the terrorist attacks of September 11, 2001, and despite rhetorical protestations to the contrary, the Government of Iran has actively and repeatedly sought to undermine the United States war on terror;

Whereas there is a broad-based movement for change in Iran that represents all sectors of Iranian society, including youth, women, student bodies, military personnel, and even religious figures, that is pro-democratic, believes in secular government, and is yearning to live in freedom;

Whereas following the tragedies of September 11, 2001, tens of thousands of Iranians filled the streets spontaneously and in solidarity with the United States and the victims of the terrorist attacks; and

Whereas the people of Iran deserve the support of the American people: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) legitimizing the regime in Iran stifles the growth of the genuine democratic forces in Iran and does not serve the national security interest of the United States;

(2) positive gestures of the United States toward Iran should be directed toward the people of Iran, and not political figures whose survival depends upon preservation of the current regime; and

(3) it should be the policy of the United States to seek a genuine democratic government in Iran that will restore freedom to the Iranian people, abandon terrorism, and live in peace and security with the international community.

Mr. WYDEN. Madam President, today we are resolved to see a new, rational foreign policy toward Iran, a policy that will engage the proud people of that nation and support their aspirations to be free of the theocratic state that abuses and oppresses them.

It is time that we recognized that the forces of extremist clerics and their allies have so completely dominated the government of Iran that there is no means to achieve political liberalization within the current system. While President Khatami has often spoken of liberalization, the last 5 years show that either he is unwilling or unable to effect any democratic change.

In fact, the record of his administration has been increasing censorship, religious vigilantes and intimidation, and wide-spread political repression. The State Department has identified systematic abuses including summary executions, disappearances, and widespread use of torture and other forms of degradation.

Student dissidents within Iran have become increasingly better organized, and have been faced with greater repression. The frequent demonstrations

by these students, women, and even religious dissidents, as well as the growing movements of expatriates show that there is a yearning for democratic change within the Iranian people. It should be a core value of our foreign policy to encourage and support any people who seek only the fundamental human freedoms laid out in our own bill of rights.

There is also self-interest involved in this move. The Iranian regime has been supplying arms and cadre to terrorist movements attacking our allies in Turkey, Armenia, and Israel, and has striven to be a destabilizing force throughout the middle-east and central Asia. This is not the fault of the Iranian people, but of a criminal class that dominates them and strangles their hopes for a peaceful and progressive future. In the days following the tragedy of September 11, it is the people of Iran who spontaneously filled the streets in shared grieving over the loss of American lives.

In dealing with Iran we must focus all of our efforts on the people, and their hopes for a free and democratic nation. The Voice of America, Radio Free Europe, and Radio Liberty must redouble their efforts to provide uncensored truth to the Iranian people. The State Department must cease lending legitimacy to the current regime and pursue a policy of fundamental democratic change; this administration must seek ways to aid and sustain those movements that will effect that change, to the benefit of the Iranian and American people alike.

SENATE CONCURRENT RESOLUTION 131—DESIGNATING THE MONTH OF NOVEMBER 2002, AS ''NATIONAL MILITARY FAMILY MONTH''

Mr. INOUYE submitted the following concurrent resolution; which was referred to the Committee on the Judiciary.

S. CON. RES. 131

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) designates the month of November 2002, as ''National Military Family Month''; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

Mr. INOUYE. Madam President, today I rise to honor all our military families by submitting a Concurrent Resolution to designate November 2002, as National Military Family Month. As we all know, memories fade and the hardships experienced by our military families are easily forgotten unless they touch our own immediate family.

Today, we have our men and women deployed all over the world, engaged in this war on terrorism. These far-ranging military deployments are extremely difficult on the families who bear this heavy burden.

To honor these families the Armed Services YMCA has sponsored Military Family Week in late November since 1996. However, due to frequent 'short week' conflicts around the Thanksgiving holidays, the designated week has not always afforded enough time to schedule observance on and near our military bases.

I believe a month long observation will allow greater opportunity to plan events. Moreover, it will provide a greater opportunity to stimulate media support.

A Concurrent Resolution will help pave the way for this effort. I ask my colleagues to join me in supporting this tribute to our military families.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4319. Mr. DURBIN (for himself and Mr. BENNETT) proposed an amendment to the bill H.R. 5121, making appropriations for the Legislative Branch for the fiscal year ending September 30, 2003, and for other purposes.

SA 4320. Mr. DURBIN (for himself and Mr. BENNETT) proposed an amendment to the bill H.R. 5121, supra.

SA 4321. Mr. DURBIN (for Ms. LANDRIEU (for himself and Mr. DURBIN)) proposed an amendment to the bill H.R. 5121, supra.

SA 4322. Mr. DURBIN (for Mr. COCHRAN (for himself, Mr. DURBIN, and Mr. BENNETT)) proposed an amendment to the bill H.R. 5121, supra.

SA 4323. Mr. DURBIN (for Mr. SPECTER (for himself and Mr. DURBIN)) proposed an amendment to the bill H.R. 5121, supra.

SA 4324. Mr. DURBIN (for Mr. DODD) proposed an amendment to the bill H.R. 5121, supra.

SA 4325. Mr. DURBIN (for himself and Mr. VOINOVICH) submitted an amendment intended to be proposed by him to the bill S. 812, to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4319. Mr. DURBIN (for himself and Mr. BENNETT) proposed an amendment to the bill H.R. 5121, making appropriations for the Legislative Branch for the fiscal year ending September 30, 2003, and for other purposes; as follows:

On page 33, lines 19 and 20, strike '',the Committee on House Administration of the House of Representatives,''.

On page 34, lined 24, through page 35, line 1, strike '',the Committee on House Administration of the House of Representatives,''.

SA 4320. Mr. DURBIN (for himself and Mr. BENNETT) proposed an amendment to the bill H.R. 5121, making appropriations for the Legislative Branch for the fiscal year ending September 30, 2003, and for other purposes; as follows:

On page 12, line 4, strike ''Board''.

On page 12, line 8, insert before the period '', to be disbursed by the Capitol Police''.

On page 12, line 10, strike ''Board''.

On page 12, line 20, strike ''Board or their delegee''.

On page 16, between lines 19 and 20, insert the following:

''This subsection shall not apply to an individual who is an employee of the Capitol Police immediately before the appointment.''

On page 25, add after line 25 the following:

SEC. 109A. PROVISIONS RELATING TO HIRING AND COMPENSATION OF CAPITOL HILL POLICE.

(a) RECRUITMENT OF INDIVIDUALS WITHOUT REGARD TO AGE.—

(1) IN GENERAL.—The Chief of the Capitol Police shall carry out any activities and programs to recruit individuals to serve as members of the Capitol Police without regard to the age of the individuals.

(2) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to affect any provision of law of any rule or regulation providing for the mandatory separation of members of the Capitol Police on the basis of age, or any provision of law or any rule or regulation regarding the calculation of retirement or other benefits for members of the Capitol Police.

(b) RECRUITMENT AND RELOCATION BONUSES, RETENTION BONUSES, AND TUITION ALLOWANCES.—

(1) RECRUITMENT AND RELOCATION BONUSES.—Section 909(a) of chapter 9 of the Emergency Supplemental Act, 2002 (40 U.S.C. 207b–2; Public Law 107–117; 115 Stat. 2320) (in this section referred to as the ''Act'') is amended—

(A) in paragraph (1), by striking ''the Board determines that the Capitol Police would be likely, in the absence of such a bonus, to encounter difficulty in filling the position'' and inserting ''the Chief, in the Chief's sole discretion, determines that such a bonus will assist the Capitol Police in recruitment efforts''; and

(B) by adding at the end the following:

''(6) DETERMINATIONS NOT APPEALABLE OR REVIEWABLE.—Any determination of the Chief under this subsection shall not be appealable or reviewable in any manner.''

(2) RETENTION ALLOWANCES.—Section 909(b) of the Act is amended—

(A) in paragraph (1)—

(i) by striking subparagraphs (A) and (B); and

(ii) by striking ''if—'' and inserting ''if the Chief, in the Chief's sole discretion, determines that such a bonus will assist the Capitol Police in retention efforts.''; and

(B) in paragraph (3), by striking ''the reduction or the elimination of a retention allowance may not be appealed'' and inserting ''any determination of the Chief under this subsection, or the reduction or elimination of a retention allowance, shall not be appealable or reviewable in any manner''.

(3) TUITION ALLOWANCES.—Section 909 of the Act is amended—

(A) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(B) by inserting after subsection (e) the following:

''(f) TUITION ALLOWANCES.—The Chief of the Capitol Police may pay tuition allowances for payment or reimbursement of education expenses in the same manner and to the same extent as retention allowances under subsection (b).''

(c) AUTHORIZING PREMIUM PAY TO ENSURE AVAILABILITY OF PERSONNEL.—

(1) IN GENERAL.—The Chief of the Capitol Police may provide premium pay to officers and members of the Capitol Police to ensure the availability of such officers and members for unscheduled duty in excess of a 40-hour work week, based on the needs of the Capitol Police, in the same manner and subject to the same terms and conditions as premium pay provided to criminal investigators under section 5545a of title 5, United States Code (subject to paragraph (2)).

(2) CAP ON TOTAL AMOUNT PAID.—Premium pay for an officer or member under this subsection may not be paid in a calendar year to the extent that, when added to the total basic pay paid or payable to such officer or member for service performed in the year,

such pay would cause the total to exceed the annual rate of basic pay payable for level II of the Executive Schedule, as of the end of such year.

(d) EFFECTIVE DATE AND REGULATIONS.—

(1) EFFECTIVE DATE.—The provisions of, and the amendments made by, this section shall apply to fiscal year 2003 and each fiscal year thereafter.

(2) REGULATIONS.—

(A) IN GENERAL.—Notwithstanding section 909(g) of chapter 9 of the Emergency Supplemental Act, 2002 (40 U.S.C. 207b–2), the Chief of the Capitol Police shall, not later than 60 days after the date of the enactment of this Act, promulgate any regulations required to carry out the provisions of, and the amendments made by, this section and sections 105, 106, and 107.

(B) REVIEW AND APPROVAL.—

(i) REVIEW.—The Chief shall submit regulations prescribed under subparagraph (A) to the Capitol Police Board for review.

(ii) APPROVAL.—The regulations prescribed under subparagraph (A) shall be subject to the approval of the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives.

SEC. 109B. TRANSFER OF DISBURSING FUNCTION.

(a) IN GENERAL.—

(1) DISBURSING OFFICER.—The Chief of the Capitol Police shall be the disbursing officer for the Capitol Police. Any reference in any law or resolution before the date of enactment of this section to funds paid or disbursed by the Chief Administrative Officer of the House of Representatives and the Secretary of the Senate relating to the pay and allowances of Capitol Police officers, members, and employees shall be deemed to refer to the Chief of the Capitol Police.

(2) TRANSFER.—Any statutory function, duty, or authority of the Chief Administrative Officer of the House of Representatives or the Secretary of the Senate as disbursing officers for the Capitol Police shall transfer to the Chief as the single disbursing officer for the Capitol Police.

(3) CONTINUITY OF FUNCTION.—Until such time as the Chief notifies the Chief Administrative Officer of the House of Representatives and the Secretary of the Senate that systems are in place for discharging the disbursing functions under this subsection, the House of Representatives and the Senate shall continue to serve as the disbursing authority on behalf of the Capitol Police.

(b) TREASURY ACCOUNTS.—

(1) SALARIES.—There is established in the Treasury of the United States a separate account for the Capitol Police, into which shall be deposited appropriations received by the Chief of the Capitol Police and available for the salaries of the Capitol Police.

(2) GENERAL EXPENSES.—There is established in the Treasury of the United States a separate account for the Capitol Police, into which shall be deposited appropriations received by the Chief of the Capitol Police and available for the general expenses of the Capitol Police.

(c) TRANSFER OF FUNDS, ASSETS, ACCOUNTS, RECORDS, AND AUTHORITY.—

(1) IN GENERAL.—The Chief Administrative Officer of the House of Representatives and the Secretary of the Senate are authorized and directed to transfer to the Chief of the Capitol Police all funds, assets, accounts, and copies of original records of the Capitol Police that are in the possession or under the control of the Chief Administrative Officer of the House of Representatives or the Secretary of the Senate in order that all such items may be available for the unified operation of the Capitol Police. Any funds so transferred shall be deposited in the Treasury accounts established under subsection (b) and be available to the Chief for the same purposes as, and in like manner and subject to the same conditions as, the funds prior to the transfer.

(2) EXISTING TRANSFER AUTHORITY.—Any transfer authority existing before the date of enactment of this Act granted to the Chief Administrative Officer of the House of Representatives or the Secretary of the Senate for salaries, expenses, and operations of the Capitol Police shall be transferred to the Chief.

(d) UNEXPENDED BALANCES.—Notwithstanding the provisions of any other law, the unexpended balances of appropriations for the fiscal year 2003 and succeeding fiscal years that are subject to disbursement by the Chief of the Capitol Police shall be withdrawn as of September 30 of the second fiscal year following the period or year for which provided. Unpaid obligations chargeable to any of the balances so withdrawn or appropriations for prior years shall be liquidated from any appropriations for the same general purpose, which, at the time of payment, are available for disbursement.

(e) HIRING AUTHORITY; ELIGIBILITY FOR SAME BENEFITS AS HOUSE EMPLOYEES.—

(1) AUTHORITY.—

(A) IN GENERAL.—Subject to subparagraph (B), the Chief of the Capitol Police, in carrying out the duties of office, is authorized to appoint, hire, discharge, and set the terms, conditions, and privileges of employment of officers, members, and employees of the Capitol Police, subject to and in accordance with applicable laws and regulations.

(B) REVIEW OR APPROVAL.—In carrying out the authority provided under this paragraph, the Chief of the Capitol Police shall be subject to the same statutory requirements for review or approval by committees of Congress that were applicable to the Capitol Police Board on the day before the date of enactment of this Act.

(2) BENEFITS.—Officers, members, and employees of the Capitol Police who are appointed by the Chief under the authority of this subsection shall be subject to the same type of benefits (including the payment of death gratuities, the withholding of debt, and health, retirement, Social Security, and other applicable employee benefits) as are provided to employees of the House of Representatives, and any such individuals serving as officers, members, and employees of the Capitol Police as of the date of enactment of this Act shall be subject to the same rules governing rights, protections, pay, and benefits in effect immediately before such date until such rules are changed under applicable laws or regulations.

(f) WORKER'S COMPENSATION.—

(1) ACCOUNT.—There shall be established a separate account in the Capitol Police for purposes of making payments for officers, members, and employees of the Capitol Police under section 8147 of title 5, United States Code.

(2) PAYMENTS WITHOUT FISCAL YEAR LIMITATION.—Notwithstanding any other provision of law, payments may be made from the account established under paragraph (1) of this subsection without regard to the fiscal year for which the obligation to make such payments is incurred.

(g) EFFECT ON EXISTING LAW.—

(1) IN GENERAL.—The provisions of this section shall not be construed to reduce the pay or benefits of any officer, member, or employee of the Capitol Police whose pay was disbursed by the Chief Administrative Officer of the House of Representatives or the Secretary of the Senate before the date of enactment of this Act.

(2) SUPERSEDING PROVISIONS.—All provisions of law inconsistent with this section are hereby superseded to the extent of the inconsistency.

(h) CONFORMING AMENDMENTS.—(1) Section 1821 of the Revised Statutes of the United States (40 U.S.C. 206) is amended by striking the third sentence.

(2) Section 1822 of the Revised Statutes of the United States (40 U.S.C. 207) is repealed.

(3) Section 111 of title I of the Act entitled ''Making supplemental appropriations for the fiscal year ending September 30, 1977, and for other purposes'', approved May 4, 1977 (2 U.S.C. 64–3), is amended—

(A) by striking ''Secretary of the Senate'' and inserting ''Chief of the Capitol Police''; and

(B) by striking ''United States Senate'' and inserting ''Capitol Police''.

(i) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect October 1, 2002, or the date of enactment of this Act, whichever is later, and shall apply to the fiscal year in which such date occurs and each fiscal year thereafter.

SA 4321. Mr. DURBIN (for Ms. LANDRIEU (for himself and Mr. DURBIN)) proposed an amendment to the bill H.R. 5121, making appropriations for the Legislative Branch for the fiscal year ending September 30, 2003, and for other purposes; as follows:

On page 44, line 24, before the period, insert the following: '':*Provided further*, That, of the total amount appropriated, $500,000 shall remain available until expended and shall be equally divided and transferred to the Alexandria Museum of Art and the New Orleans Museum of Art for activities relating to the Louisiana Purchase Bicentennial Celebration''

SA 4322. Mr. DURBIN (for Mr. COCHRAN (for himself, Mr. DURBIN, and Mr. BENNETT)) proposed an amendment to the bill H.R. 5121, making appropriations for the Legislative Branch for the fiscal year ending September 30, 2003, and for other purposes; as follows:

On page 28, line 11, strike ''$108,743,000'' and insert ''$108,243,000''.

On page 63, insert between lines 10 and 11 the following:

SEC. 312. TITLE II OF THE CONGRESSIONAL AWARD ACT.

There are appropriated, out of any funds in the Treasury not otherwise appropriated, $500,000, to remain available until expended, to carry out title II of the Congressional Award Act (2 U.S.C. 811 et seq.).

SA 4323. Mr. DURBIN (for Mr. SPECTER (for himself and Mr. DURBIN)) proposed an amendment to the bill H.R. 5121, making appropriations for the Legislative Branch for the fiscal year ending September 30, 2003, and for other purposes; as follows:

On page 5, line 26, insert before the period '',of which up to $500,000 shall be made available for a pilot program for mailings of postal patron postcards by Senators for the purposes of providing notice of a town meeting by a Senator in a county (or equivalent unit of local government) with a population of less than 250,000 and at which the Senator will personally attend: Provided, That any amount allocated to a Senator for such mailing shall not exceed 50 percent of the cost of the mailing and the remaining cost shall be paid by the Senator from other funds available to the Senator: Provided further, That not later than October 31, 2003, the Sergeant at Arms and Doorkeeper of the Senate shall

submit a report to the Committee on Rules and Administration and Committee on Appropriations of the Senate on the Senate of the program''.

SA 4324. Mr. DURBIN (for Mr. DODD) proposed an amendment to the bill H.R. 5121, making appropriations for the Legislative Branch for the fiscal year ending September 30, 2003, and for other purposes; as follows:

On page 9, between lines 17 and 18, insert:

SEC. ___. PUBLIC SAFETY EXCEPTION TO INSCRIPTIONS REQUIREMENT ON MOBILE OFFICES.

(a) IN GENERAL.—Section 3(f)(3) under the heading ''ADMINISTRATIVE PROVISIONS'' in the appropriation for the Senate in the Legislative Branch Appropriation Act, 1975 (2 U.S.C. 59(f)(3)) is amended by adding at the end the following flush sentence:

''The Committee on Rules and Administration of the Senate may prescribe regulations to waive or modify the requirement under subparagraph (B) if such waiver or modification is necessary to provide for the public safety of a Senator and the Senator's staff and constituents.''

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of enactment of this Act and apply to the fiscal year that includes such date and each fiscal year thereafter.

SA 4325. Mr. DURBIN (for himself and Mr. VOINOVICH) submitted an amendment intended to be proposed by him to the bill S. 812, to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. COLLECTION OF PRESCRIPTION DRUG PRICES; CALCULATION OF AVERAGE RETAIL PRICES; CONSUMER GUIDE TO PRESCRIPTION DRUGS.

(a) PURPOSES.—The purposes of this section are the following:

(1) To provide beneficiaries under the medicare program under title XVIII of the Social Security Act with information on the prices of prescription drugs so that they can decide, in consultation with their health care providers, whether a brand name drug or its therapeutic or generic equivalent would be appropriate.

(2) To provide information to health care providers on the prices of prescription drugs and the generic equivalents of such drugs.

(3) To inform beneficiaries under the medicare program of the role of the Food and Drug Administration in ensuring that generic drugs are as safe as brand name drugs and equivalent to brand name drugs.

(b) CALCULATION OF AVERAGE RETAIL PRICES.—

(1) COLLECTION OF RETAIL PRESCRIPTION DRUG PRICES.—

(A) RETAIL PRICES OF 200 MOST COMMONLY USED DRUGS BY MEDICARE BENEFICIARIES.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall establish a process for the collection of sample data nationwide on the retail prices of the 200 most commonly used prescription drugs by beneficiaries under the medicare program.

(B) RETAIL PRICES OF ADDITIONAL DRUGS.—The process established under paragraph (1) may provide for the collection of retail prices on prescription drugs not described in such paragraph if the Secretary determines that such collection is feasible and would be beneficial to beneficiaries under the medicare program and their health care providers.

(2) CALCULATION OF AVERAGE RETAIL PRICES.—Using the data collected under paragraph (1), the Secretary shall calculate an average retail price for each prescription drug for which data is collected under such subsection.

(3) AUTHORITY TO CONTRACT WITH A PRIVATE ENTITY TO COLLECT DATA AND CALCULATE PRICES.—If determined appropriate by the Secretary, the Secretary may contract with a private entity to—

(A) collect the data under paragraph (1); and

(B) make the calculations under paragraph (2).

(c) CONSUMER GUIDE TO PRESCRIPTION DRUGS.—

(1) IN GENERAL.—The Secretary shall—

(A) annually publish a Consumer Guide to Prescription Drugs;

(B) annually distribute such Guide to beneficiaries under the medicare program;

(C) make such Guide available to health care providers; and

(D) maintain the information contained in such Guide on the Medicare Internet site of the Department of Health and Human Services.

(2) REQUIREMENTS.—The Consumer Guide to Prescription Drugs established under paragraph (1) shall, with respect to the drugs for which data is collected under subsection (b)—

(A) provide beneficiaries under the medicare program and health care providers with—

(i) easy-to-understand information about such prescription drugs and information on the requirement under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) that a generic drug be bioequivalent to the brand name drug for which it is a substitute; and

(ii) information to assist such beneficiaries and providers in comparing the costs of such prescription drugs by therapeutic category; and

(iii) information regarding the wide variation in drug prices across the country;

(B) group such prescription drugs within their therapeutic classes;

(C) identify generic equivalents where available for brand name drugs in a manner that allows the beneficiary and the health care provider to compare the relative prices of generic and brand name drugs; and

(D) include a list of the average retail price of each such prescription drug (as determined under subsection (b)).

(3) TIMEFRAME.—The Secretary shall publish the Consumer Guide to Prescription Drugs within 24 months of the date of enactment of this Act and shall publish an updated version of the Guide annually thereafter. The Secretary may publish periodic bulletins to such Guide that reflect changes in the prices of prescription drugs in the Guide between the dates of annual publication of the Guide.

(4) INCLUSION IN MEDICARE HANDBOOK.—If the Secretary determines that it is appropriate to do so, the Secretary may publish the Consumer Guide to Prescription Drugs as part of the notice of medicare benefits required by section 1804(a) of the Social Security Act (42 U.S.C. 1395b–2(a)).

(d) GENERIC DRUG DEFINED.—In this section, the term ''generic drug'' means—

(1) a drug approved under subsection (b)(2) or (j) of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and for which the brand name drug is the listed drug for the drug approved under such a subsection; and

(2) a drug that the Secretary has determined is therapeutically equivalent to a drug described in paragraph (1) that is not a brand name drug.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the committee on Energy and Natural Resources.

The hearing will take place on Wednesday, August 7, 2002, from 9:00 a.m. until 11:00 a.m. at the Genoveva Chavez Community Center, 3221 Rodeo Road, in Santa Fe, New Mexico.

The purpose of the hearing is to receive testimony on S. 2776, a bill to provide for the protection of archaeological sites in the Galisteo Basin in New Mexico, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, 312 Dirksen Senate Office Building, Washington, DC 20510, or to Senator Bingaman's office in Santa Fe, 119 E. Marcy Street, Suite 101, Santa Fe, NM 87501.

For further information, please contact David Brooks of the Committee staff at (202) 224–4103.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, July 25, 2002, at 9:30 a.m., in open session to receive testimony on the national security implications of the strategic offensive reductions treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, July 25, 2002, immediately following the first rollcall vote, to conduct a mark up on the nominations of Mr. Paul S. Atkins, of Virginia, to be a member of the Securities and Exchange Commission; Mr. Harvey Jerome Goldschmid, of New York, to be a member of the Securities and Exchange Commission; Ms. Cynthia A. Glassman, of Virginia, to be a member of the Securities and Exchange Commission; and Mr. Roel C. Campos, of Texas, to be a member of the Securities and Exchange Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, July 25, 2002, at 9:30 a.m. on aviation security in transition.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Thursday, July 25, 2002, at 11:00 a.m. to consider pending legislation, nominations, and resolutions. The meeting will be held in SD–406.

Agenda

Legislation:

S. 1602, the Chemical Security Act of 2001

S. 1746, the Nuclear Security Act of 2001

S. 1850, the Underground Storage Tank Compliance Act of 2001

S. 2771, the John F. Kennedy Center Plaza Authorization Act of 2002

Nominations:

Nomination of John S. Bresland to be a Member and Chair of the Chemical Safety and Hazard Investigation Board

Nomination of Carolyn W. Merritt to be a Member and Chair of the Chemical Safety and Hazard Investigation Board

Nomination of John P. Suarez to be Assistant Administrator for Enforcement and Compliance, Environmental Protection Agency

Resolutions:

Study Resolution for Brush Creek Basin, Kansas and Missouri

Study Resolution for Walton County, Florida

Study Resolution for Mercer County, New Jersey

Study Resolution for Camden and Gloucester Counties, New Jersey

Study Resolution for Indian River and Bay, Delaware

Study Resolution for Sand Creek, Oklahoma

Study Resolution for Shellpot Creek, Delaware

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 25, 2002 at 10:30 a.m. to hold a business meeting.

Agenda

The Committee will consider and vote on the following agenda items:

Treaties:

1. Treaty Doc. 96–53, Convention on the Elimination of All Forms of Discrimination Against Women, adopted by the U.N. General Assembly on December 18, 1979, and signed on behalf of the United States of America on July 17, 1980.

2. Treaty Doc. 105–32, An agreement Establishing the South Pacific Regional Environment Programme, done at Apia on June 16, 1993.

3. Treaty Doc. 105–53, A Treaty Between the Government of the United States of America and the Government of Niue on the Delimitation of a Maritime Boundary.

Legislation:

4. S. Res. 300, A resolution encouraging the peace process in Sri Lanka, with amendments.

Nominations:

5. Mr. Randolph Bell, of Virginia, for the rank of Ambassador during his tenure of service as Special Envoy for Holocaust Issues.

6. Mr. James Gadsden, of Maryland, to be Ambassador to the Republic of Iceland.

7. Mr. James Jeffrey, of Virginia, to be Ambassador to the Republic of Albania.

8. Mr. Michael Klosson, of Maryland, to be Ambassador to the Republic of Cyprus.

9. Mr. Norman J. Pattiz, of California, to be a Member of the Broadcasting Board of Governors for a term expiring August 13, 2004.

10. Mr. Paul Speltz, of Texas, to be United States Executive Director of the Asian Development Bank, with the rank of Ambassador.

11. Mr. Mark Sullivan, III, of Maryland, to be United States Executive Director of the European Bank for Reconstruction and Development.

12. Mr. Kenneth Y. Tomlinson, of Virginia, to be a Member and Chairman of the Broadcasting Board of Governors for a term expiring August 13, 2004.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, July 25, 2002 at 9:30 a.m. for a business meeting to consider pending business.

Agenda

1. To authorize withdrawal of the Committee amendments and offering of a floor amendment in the nature of a substitute to the National Homeland Security and Combating Terrorism Act of 2002 (S. 2452) which the Committee ordered reported on May 22, 2002.

Nominations:

a. James ''Jeb'' E. Boasberg to be an Associate Judge of the Superior Court of the District of Columbia.

b. Michael D. Brown to be Deputy Director of the Federal Emergency Management Agency.

c. The Honorable Mark W. Everson to be Deputy Director for Management, Office for Management and Budget

THE PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on Violence against Women in the Workplace: The Extent of the Problem and What Government and Businesses Are Doing About It, during the session of the Senate on Thursday, July 25, 2002 at 10:00 a.m. in SD–430.

THE PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Thursday, July 25, 2002, at 10:00 a.m. in Room 485 of the Russell Senate Office Building to conduct a hearing on the July 2, 2002 Report of the U.S. Department of the Interior to the Congress on the Historical Accounting of Individual Indian Money Accounts.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on ''Oversight of the Department of Justice,'' on Thursday, July 25, 2002 in Dirksen Room 226 at 10:00 a.m.

Witness List

The Honorable John D. Ashcroft, Attorney General, Department of Justice, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, July 25, 2002 at 10:00 a.m. to hold a closed hearing on the Joint Inquiry into the events of September 11, 2001.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. REID. Mr. President, I ask unanimous consent that the Public Lands and Forests Subcommittee of the Committee on Energy and Natural Resources be authorized to hold a Hearing during the session of the Senate on Thursday, July 25, at 2:30 p.m. in SD–366.

The purpose of this hearing is to receive testimony on S. 2672, to provide opportunities for collaborative restoration projects on National Forest System and other public lands.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. Madam President, I ask unanimous consent that the Senate

proceed to executive session to consider the following nominations en bloc: Calendar Nos. 829, 830, 832, 837, 838, 839, 841, 842, 843, 844, 845, 931, 932, 933, and 934.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I further ask that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table; and any statements be printed in the Record; that the President be immediately notified of the Senate's action; and that the Senate then return to legislative session, with the preceding all occurring without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations were considered and confirmed en bloc, as follows:

CONSUMER PRODUCT SAFETY COMMISSION

Harold D. Stratton, of New Mexico, to be Chairman of the Consumer Products Safety Commission.

Harold D. Stratton, of New Mexico, to be a Commissioner of the Consumer Product Safety Commission for the remainder of the term expiring October 26, 2006.

FEDERAL EMERGENCY MANAGEMENT AGENCY

Anthony Lowe, of Washington, to be Federal Insurance Administrator, Federal Emergency Management Agency.

THE JUDICIARY

Robert R. Rigsby, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

DISTRICT OF COLUMBIA OFFENDER SUPERVISION, DEFENDER, AND COURTS SERVICES AGENCY

Paul A. Quander, Jr., of the District of Columbia, to be Director of the District of Columbia Offender Supervision, Defender, and Courts Services Agency for a term of six years.

DEPARTMENT OF JUSTICE

Todd Walther Dillard, of Maryland, to be United States Marshal for the Superior Court of the District of Columbia for the term of four years.

DEPARTMENT OF JUSTICE

Roslynn R. Mauskopf, of New York, to be United States Attorney for the Eastern District of New York for the term of four years.

Steven D. Deatherage, of Illinois, to be United States Marshal for the Central District of Illinois for the term of four years.

Thomas M. Fitzgerald, of Pennsylvania, to be United States Marshal for the Western District of Pennsylvania for the term of four years.

G. Wayne Pike, of Virginia, to be United States Marshal for the Western District of Virginia for the term of four years.

David William Thomas, of Delaware, to be United States Marshal for the District of Delaware for the term of four years.

SECURITIES AND EXCHANGE COMMISSION

Paul S. Atkins, of Virginia, to be a Member of the Securities and Exchange Commission for the remainder of the term expiring June 5, 2003.

Cynthia A. Glassman, of Virginia, to be a Member of the Securities and Exchange Commission for a term expiring June 5, 2006.

Harvey Jerome Goldschmid, of New York, to be a Member of the Securities and Exchange Commission for the term expiring June 5, 2004.

Roel C. Campos, of Texas, to be a Member of the Securities and Exchange Commission for a term expiring June 5, 2005.

THE NOMINATION OF DAVID WILLIAM THOMAS TO BE US MARSHAL FOR THE DISTRICT OF DELAWARE.

Mr. CARPER. Madam President, I rise to enthusiastically support the nomination of David William Thomas to be the next United States Marshal for the District of Delaware.

It has been my pleasure to know Sgt. Thomas for many years. He is a good and decent person, a devoted and committed husband and father, a fine police officer, a volunteer fire fighter and an all around ''great guy.'' I believe he will serve both Delaware and the United States very, very well.

''Tito,'' as many call him, has been a police officer for more than 20 years. He began his career as a patrol officer with the University of Delaware Police where he quickly developed a reputation for firmness in his enforcement of the law and university policy as well as for sensitivity to the particular needs and concerns of the student body. After three years, Sgt. Thomas moved to the Delaware State Police where he served in several different capacities ranging from Patrol Trooper, where the rubber literally hits the road, to public information officer, interacting with the public and the media.

During his tenure with the State Police, ''Tito'' Thomas worked directly for two governors of Delaware. During the second term of former Governor Mike Castle who is now Delaware's congressman, Sgt. Thomas provided security as a member of the Executive Protection Unit. During my own second term as Governor, ''Tito'' served as Legislative Liaison for my Department of Public Safety, promoting public safety legislation in our state general assembly.

In addition to his employment as a police officer, Sgt. Thomas has served his community as a volunteer in other capacities. Notably, he is a member of the Aetna Hose Hook and Ladder Volunteer Fire Company in Newark, Delaware and a volunteer CPR Instructor with the American Heart Association.

David Thomas' extensive and varied background in law enforcement, his demonstrated sense of commitment to his community, his devotion to his growing family and his exemplary moral character all serve to qualify him well to be United States Marshall for the District of Delaware.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will retire to legislative session.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to P.L. 103–227, appoints the following individual to the National Skill Standards Board for a term of four years: Upon the recommendation of the Republican Leader: Betty W. DeVinney of Tennessee, Representative of Business.

The Chair, on behalf of the Republican Leader, pursuant to Public Law 107–171, announces the appointment of Mr. Robert H. Forney, of Indiana, to serve as a member of the Board of Trustees of the Congressional Hunger Fellows Program.

MEASURE READ THE FIRST TIME—H.R. 4965

Mr. REID. It is my understanding H.R. 4965 is now at the desk. I therefore ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill by title for the first time.

The assistant legislative clerk read as follows:

A bill (H.R. 4965) to prohibit the procedure commonly known as partial-birth abortion.

Mr. REID. I now ask for the second reading and object to my own request.

The PRESIDING OFFICER. Objection is heard.

ORDERS FOR FRIDAY, JULY 26, 2002

Mr. REID. I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:55 a.m., Friday, July 26; that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate proceed to executive session to vote on cloture on Executive Calendar No. 810.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. The next rollcall vote will occur at approximately 10 a.m. on cloture on the nomination of Julia Smith Gibbons to be United States Circuit Judge for the Sixth Circuit and a second rollcall vote on an additional judicial nomination is possible tomorrow.

ADJOURNMENT UNTIL 9:55 A.M. TOMORROW

Mr. REID. If there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:59 p.m., adjourned until Friday, July 26, 2002, at 9:55 a.m.

NOMINATIONS

Executive nominations received by the Senate July 25, 2002:

THE JUDICIARY

JEFFREY S. WHITE, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA, VICE CHARLES A. LEGGE, RETIRED.

KENT A. JORDAN, OF DELAWARE, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF DELAWARE, VICE RODERICK R. MCKELVIE, RETIRED.

SANDRA J. FEUERSTEIN, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF NEW YORK, VICE THOMAS C. PLATT, JR., RETIRED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE

AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 8036 AND 601:

To be lieutenant general

MAJ. GEN. GEORGE P. TAYLOR JR., 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. RICHARD A. CODY, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. BANTZ J. CRADDOCK, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. WILLIAM E. WARD, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. WILLIAM S. CRUPE, 0000

THE FOLLOWING ARMY NATIONAL GUARD OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIGADIER GENERAL HARRY B. BURCHSTEAD JR., 0000
BRIGADIER GENERAL GEORGE A. BUSKIRK JR., 0000
BRIGADIER GENERAL JAMES A. COZINE, 0000
BRIGADIER GENERAL RICKY D. ERLANDSON, 0000
BRIGADIER GENERAL GREGORY J. VADNAIS, 0000

To be brigadier general

COLONEL BRUCE E. BECK, 0000
COLONEL RICHARD M. BLUNT, 0000
COLONEL TOD J. CARMONY, 0000
COLONEL MICHAEL J. CURTIN, 0000
COLONEL HUNTINGTON B. DOWNER JR., 0000
COLONEL MICHAEL P. FLEMING, 0000
COLONEL RALPH R. GRIFFIN, 0000
COLONEL GREGORY A. HOWARD, 0000
COLONEL ARTHUR V. JEWETT, 0000
COLONEL MICHAEL A. KIEFER, 0000
COLONEL THOMAS C. LAWING, 0000
COLONEL JOHN E. LEATHERMAN, 0000
COLONEL HERBERT L. NEWTON, 0000
COLONEL PATRICK M. O'HARA, 0000
COLONEL DARREN G. OWENS, 0000
COLONEL STEWART A. REEVE, 0000
COLONEL LAWRENCE H. ROSS, 0000
COLONEL TERRY W. SALTSMAN, 0000
COLONEL JOHN E. SAYERS JR., 0000
COLONEL THEODORE G. SHUEY JR., 0000
COLONEL ANTHONY M. STANICH JR., 0000
COLONEL ROBIN C. TIMMONS, 0000
COLONEL JODI S. TYMESON, 0000
COLONEL EDWARD L. WRIGHT, 0000
COLONEL MARK E. ZIRKELBACH, 0000

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR A REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U. S. C., SECTION 531:

To be colonel

BUENAVENTURA Q. ALDANA, 0000
EDWARD TAXIN, 0000
ANDREW W. TICE, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To Be Lieutenant Colonel

SUSAN S. BAKER, 0000
CAROLYN M. BELL, 0000
JOSEPH P. BURGER III, 0000
DONALD COLE, 0000
CORI A. CULVER, 0000
KENNETH R. DARLING, 0000
ARTHUR R. DAVENPORT JR., 0000
KATHRYN D. DRAKE, 0000
JOHN L. FLYNN, 0000
DAVID W. GARRISON, 0000
HENRI T. HAMMOND, 0000
RICHARD C. HART, 0000
LORN W. HEYNE, 0000
JOSEPH C. KENNEDY, 0000
KRZYSZTOF KRAS, 0000
JOHN M. LOPARDI, 0000
STEVEN S. LOWRY, 0000
TROY P. MCGILVRA, 0000
RICHARD A. MCMILLAN, 0000
DONALD T. MOLNAR, 0000
CHARLES W. NELSEN, 0000
WILLIAM D. PARKER, 0000
MICHELLE N. PELL, 0000
DAVID W. PFAFFENBICHLER, 0000
ROBERT F. ROCCO, 0000
JAIME L. ROSADO JR., 0000
DAWN E. ROWE, 0000
SCOTT J. SANCHEZ, 0000
MICHELE M. SCHOTT, 0000
JIMMY L. STERLING, 0000
RICHARD N. TERRY, 0000
PORTIA A. THOMAS, 0000
JUDITH E. VALDEZ, 0000
TIMOTHY VALLADARES, 0000
KIRSTEN F. WATKINS, 0000
JON C. WELCH, 0000
GILMER G. WESTON III, 0000

IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

ANTONIO CORTESSANCHEZ, 0000
KIMBERLY D. WILSON, 0000

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

HENRY G. BERNREUTER, 0000
LAWRENCE W. BROCK III, 0000
MATTHEW B. CHANDLER, 0000
MARK C. CHUN, 0000
ANTHONY C. CRAWFORD, 0000
EDDIE H. GOFF, 0000
JESUS G. RAMIREZ JR., 0000
MARK D. SCRABA, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY DENTAL CORPS, UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be major

RALF C BEILHARDT, 0000
ROBERT E BESSEY, 0000
JOHN E BROCK, 0000
EDA P DEMETRIUS, 0000
WILLIAM J GREENWOOD, 0000
THEODORE R GRIGG, 0000
IKE B HARDY, 0000
DOXIADES A HILL, 0000
HERMANN F HINZE, 0000
PHUONG C HUYNH, 0000
CHRISTOPHER S LEA, 0000
WILLIAM K LIN, 0000
TAWANNA MCGHEE, 0000
RICHARD RITTER V, 0000
JEAN C SENECAL, 0000
JAMES M SUTTON, 0000
TIMOTHY J SWANSON, 0000
JOHN T THOMPSON, 0000
EDWARD J VANISKY, 0000
BRUCE M WHEELER, 0000
RICHARD L WILLIAMS, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be major

MICHAEL P ABEL, 0000
VICTOR A AGNELLO, 0000
ELIZABETH G AKAKA, 0000
MICHAEL C ALBRECHT, 0000
WARREN L ALEXANDER, 0000
HERMINEE ALEXANIAN, 0000
RONALD D ALLEN, 0000
JOHN G ALLRED, 0000
CRAIG J AMNOTT, 0000
JIMIE D ANDERSON, 0000
CHRISTOPHER D APPLETON, 0000
MARIA E ARCILA, 0000
EDWARD H BAILEY, 0000
TIMOTHY J BALLING, 0000
KATHERIN BALTURSHOT, 0000
CHRISTINA M BALUM, 0000
DONALD A BALUN, 0000
BRIAN E BARDEN, 0000
JEFFREY G BARNES, 0000
LEE J BARTON, 0000
STEVEN E BATTLE, 0000
CHRISTOPHER J BENNETT, 0000
JOHN A BENSON, 0000
JEROME V BENZ JR., 0000
KENNETH R BERGMAN, 0000
RICHARD A BICKEL JR., 0000
PHILIP J BILLONI, 0000
RACHEL J BISHOP, 0000
WILLIAM B BIVENS, 0000
ROBERT B BLANKENSHIP, 0000
SCOTT C BLEDSOE, 0000
DENNIS E BLEY, 0000
JASON A BOARDMAN, 0000
JESSE D BOLTON, 0000
GREGORY T BRAMBLETT, 0000
STEPHEN A BRASSELL, 0000
LORANEE E BRAUN, 0000
SCOTT E BRIETZKE, 0000
WILLIAMS Q BRITTON, 0000
STEPHEN J BUETOW, 0000
JOHN M BURBIDGE, 0000
RICHARD O BURNEY, 0000
DAVID M BUSHLEY, 0000
ARTHUR L CAMPBELL III, 0000
ROBERT A CARDONA, 0000
DAVID J CASEY, 0000
JOHN R CHANCE, 0000
DIANE M CHIRICO, 0000
CHARLES J CHITWOOD, 0000
GREGORY T CHOE, 0000
ANNETTE R CLARKBROWN, 0000
DAVID W COLE, 0000
MICHAEL A COLE, 0000
JAMES P COLEMAN III, 0000
GEORGE R COLLINS, 0000
JOHN W COLLINS, 0000
BRENDON R CONNOLLY, 0000
ALAN D CONWAY, 0000
PATRICK R COOK, 0000
CHRISTOPHER R COTE, 0000
RICHARD J CRETTELA, 0000
ROBERT F CROWE, 0000
PAUL J CUNNINGHAM, 0000
GREGORY G DAMMANN, 0000
COLIN Y DANIELS, 0000
JASMINE T DANIELS, 0000
KURT G DAVIS, 0000
RUSSELL O DAVIS, 0000
JEFFREY A DEAN, 0000
CARL W DECKER, 0000
RHONDA DEEN, 0000
SHAD H DEERING, 0000
KENT J DEZEE, 0000
BRIAN P DEZZUTTI, 0000
CHARLES S DIETRICH III, 0000
ANDREW E DOYLE, 0000
GARY P DUPUY, 0000
TRECIA L ELAHEE, 0000
MICHAEL W ELLIS, 0000
BARRY R FLEISCHER, 0000
MICHELLE S FLORES, 0000
JAN H FLOYD, 0000
ANTHONY M FOLEY, 0000
LOUIS F FOLEY, 0000
BRUCE M FOOTIT, 0000
FRANKLIN W FREDERICK, 0000
MARK C FRIBERG, 0000
TODD A FUNKHOUSER, 0000
PAUL D GARRETT, 0000
CASEY J GEANEY, 0000
PHILIP J GENTLESK, 0000
JAMES J GERACCI, 0000
LYNN M GIARRIZZO, 0000
KELLY R GILLESPIE, 0000
MELISSA L GIVENS, 0000
NICHOLE R GLASS, 0000
LISA B GOFF, 0000
RAYMOND G GOOD, 0000
ERIC J GOURLEY, 0000
JOSEPH D GRAMLING, 0000
JENNIFER A GRECO, 0000
BRETT A GUIDRY, 0000
JOHN W HAMMOCK, 0000
JOHN W HARIADI, 0000
KYLE C HARNER, 0000
ADAM W HARRIS, 0000
DARREN L HARRIS, 0000
FREDERICK B HARRIS, 0000
DONALD L HELMAN JR., 0000
MAXWELL P HENDRIX, 0000
JEFFREY V HILL, 0000
CHRIS A HOFLAND, 0000
ROBERT H HOLLAND, 0000
SEAN A HOLLONBECK, 0000
CONCETTA R HOLLOWAY, 0000
LAURENCE C HOOD, 0000
LYNN L HORVATH, 0000
JAMIA E HOWELL, 0000
NABEEN HUSSAIN, 0000
THOMAS R HUSTEAD, 0000
CHRISTOPHER L HUTSON, 0000
CAESAR S INES, 0000
DANIEL J IRIZARRY, 0000
JOHNSON ISAAC, 0000
WILLIAM L JACKSON, 0000
TYLER M JAMES, 0000
CHRISTOPHER G JARVIS, 0000
JEREMY S JOHNSON, 0000
JONI J JOHNSON, 0000
CHRISTOPHER B JONES, 0000
JENNIFER E JORGENSEN, 0000
JAMES W JOSEPH, 0000
VALLIE KAPRELIAN, 0000
SANGEETA KAUSHIK, 0000
DWIGHT C KELLICUT, 0000
DARIN N KENNEDY, 0000
BRADFORD A KILCLINE, 0000
ISAAC K KIM, 0000
JAMES Y KIM, 0000
KURT G KINNEY, 0000
MARY M KLOTE, 0000
JEFFREY K KLOTZ, 0000
JONATHAN M KOFF, 0000
CHRISTIAN L KOOPMAN, 0000
CRAIG T KOPECKY, 0000
KURTIS L KOWALSKI, 0000
JAMES G LAMPHEAR, 0000
GREGORY T LANG, 0000
CHRISTOPHER L LANGE, 0000
JENNIFER T LANGE, 0000
DAVID LAW, 0000
BRENT L LECHNER, 0000
JOSEPH Y LEE, 0000
SOOK L LEE, 0000
RONALD LEHMAN, 0000
ERIC N LEONG, 0000
WILLIAM D LEUSINK, 0000
HWEI T LIN, 0000
BRIAN J LOHNES, 0000
DARA D LOWE, 0000

JAMES B LUCAS II, 0000
TODD J LUCAS, 0000
PEDRO F LUCERO, 0000
KIMBERLY K LUND, 0000
SHAWN A MACLEOD, 0000
ANDREW D MAGNET, 0000
JOHN R MAGPANTAY, 0000
ROBERT F MALSBY III, 0000
GREGORY J MARTIN, 0000
ROBERT T MATHIS, 0000
LARRY J MCCORD, 0000
RAAP J MCELHINNY, 0000
MARK E MCGRANAHAN, 0000
IAN K MCLEOD, 0000
LEAH P MCMANN, 0000
MICHAEL A MCMANN, 0000
SEAN K MCVEIGH, 0000
CHRISTOPHER D MEDELLIN, 0000
GARY W MENEFEE, 0000
JOHN W MERCER JR., 0000
MICHAEL J MINES, 0000
MICHAEL J MOFFATT, 0000
SEAN P MONTGOMERY, 0000
DOROTHY K MORGAN, 0000
JEFFREY S MORGAN, 0000
STEPHEN M MORRIS, 0000
JEANNIE M MUIRPADILLA, 0000
SEAN W MULVANEY, 0000
MICHAEL E MURPHY, 0000
MALCOLM G NAPIER, 0000
RAJEEV NARAYAN, 0000
ROBERT H NELSON, 0000
ROMEO NG, 0000
THERESA M NGUYEN, 0000
TOM L NGUYEN, 0000
NERIS M NIEVESCOLBERG, 0000
ERIK B NUCKOLS, 0000
RONALD P OBERFOELL, 0000
SARAH K OKADA, 0000
SEAN T OMARA, 0000
ROBERT J ORGAN, 0000
SHAWN S OSTERHOLT, 0000
ELIZABETH A OTTNEY, 0000
ROBERT H OVERBAUGH, 0000
KAREN L PALMER, 0000
SOHYUN C PARK, 0000
MICHAEL E PARKER, 0000
TARAK H PATEL, 0000
CHARLES L PEDERSON, 0000
ANA E PERALTA, 0000
JEREMY G PERKINS, 0000
JEROME V PONDER, 0000
JENNIFER POTTER, 0000
DAVID N PRESSMAN, 0000
JOSEPH PUSKAR, 0000
DAVID M QUINN, 0000
GAURI RADKAR V, 0000
BRADEN R RANCE, 0000
MATTHEW S RICE, 0000
THOMAS J RICHARD, 0000
SUSAN M ROBINSON, 0000
STEVEN W ROBISON, 0000
FALCON W RODRIGUEZ, 0000
JORGE L ROMEU, 0000
INGER L ROSNER, 0000
ROBERT RUSSELL, 0000
GAYLE B RYAN, 0000
MEG E RYAN, 0000
DAVID S SACHAR, 0000
SCOTT A SALMON, 0000
CHRISTOPHER K SANBORN, 0000
DON J SARMIENTO, 0000
TIMOTHY M SASALA, 0000
STEVEN A SAWYER, 0000
ANTHONY SCHULTZ, 0000
DEAN A SEEHUSEN, 0000
ERNEST C SEVERN, 0000
RICHARD A SEXTON, 0000
ANDREW J SHAPIRO, 0000
DAVID J SHAW, 0000
ERIK J SHELSTAD, 0000
PAULA J SHEPHERD, 0000
SEAN M SHOCKEY, 0000
RENEE M SIEGMANN, 0000
CASTANEDA A SIEROCKA, 0000
LINDA G SLAYTON, 0000
BRYAN C SLEIGH, 0000
JOHNNY D SMITH, 0000
JONATHAN K SMITH, 0000
KAREN E SMITH, 0000
RICHARD R SMITH, 0000
PATRICK J SNOWMAN, 0000
TAIIL T SONG, 0000
RONALD J STUKEY, 0000
LANCE E SULLENBERGER, 0000
NAOMI R SULLIVAN, 0000
DANIELLE C SUYKERBUYK, 0000
ROBERT A SUYKERBUYK, 0000
COSIMA C SWINTAK, 0000
HUNTER E SWITZER, 0000
TIMOTHY S TALBOT, 0000
OVERPECK T TENEWITZ, 0000
BRIGILDA C TENEZA, 0000
SEAN F THOMAS, 0000
JOHN E THORDSEN JR., 0000
MARIA D THORDSENVELEZ, 0000
LEROY J TROMBETTA, 0000
JOSEPH C TURBYVILLE, 0000
BRADLEY S VANDERVEEN, 0000
RODNEY A VILLANUEVA, 0000
GEORGE VONHILSHEIMER, 0000
JEFFREY A VOS, 0000
PHILIP M WAALKES, 0000
KIRK H WAIBEL, 0000
JACQUELINE A WARDGAINES, 0000
CHRISTOPHER L WATHIER, 0000
EMERY S WEAVER, 0000
KIMBERLY A WENNER, 0000
KENNETH R WEST, 0000
CHRISTOPHER E WHITE, 0000
WENDY J WHITFORD, 0000
KIMBERLY L WHITTINGTON, 0000
DONALD K WILLIAMS, 0000
JOSEPH A WILLIAMS, 0000
JEFFREY L WILSON, 0000
WILLIAM K WONG JR., 0000
BRADLEY K WOODS, 0000
JUSTIN T WOODSON, 0000
PHILIP A WOODWORTH, 0000
JOHNNIE WRIGHT JR., 0000
GERALD E YORK II, 0000
WESLEY G ZEGER, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

STEVEN D. KORNATZ, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

MARY B. GERASCH, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

BARON D. JOLIE, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

TODD A. MASTERS, 0000

To be lieutenant commander

PERRY W. SUTER, 0000

THE FOLLOWING NAMED OFFICERS FOR TEMPORARY APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 5721:

To be lieutenant commander

WILLIAM L ABBOTT, 0000
SCOTT B CURTIS, 0000
TODD A FIGANBAUM, 0000
ANDREW G GRANT, 0000
WILLIAM A HALE, 0000
JOEL HARVEY, 0000
JAMES H HUMPHREY, 0000
MICHAEL E HUTCHENS, 0000
FRANK J KORFIAS, 0000
THOMAS P MONINGER, 0000
MARTIN J MUCKIAN, 0000
CHRISTOPHER A NERAD, 0000
BENJAMIN R NICHOLSON, 0000
ROBERT D SANDERS, 0000
DAVID E SMITH, 0000
RAYMOND C SPEARS, 0000
HENRY P STEWART, 0000
LAUREN L TROYAN, 0000
JOHN M WENKE JR., 0000
DONALD E WYATT, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

VANESSA P AMBERS, 0000
JOHN D BANDY, 0000
JOSEPH E BRENNAN, 0000
JAMES L CAROLAND, 0000
MICHAEL S COONEY, 0000
SAMMY CUEVAS, 0000
MARIA E DESANDRE, 0000
GREGORY L DIXON, 0000
JOSEPH E DUPRE, 0000
ROB E ENDERLIN, 0000
SHELLY V FRANK, 0000
BRYANT L FRAZIER, 0000
JOHN S GALIPEAU, 0000
PETER GIANGRASSO, 0000
MELVIN P GORDON, 0000
JOSHUA C HANSEN, 0000
LINDA M HATCHER, 0000
STEPHEN M HEINSINGER, 0000
CHRISTOPHER E HOWSE, 0000
SHAWN W MCGINNIS, 0000
STUART R MCKENNA, 0000
CHERYL A MUIRHEAD, 0000
WILLIAM S MYERS, 0000
DAVID I ODOM, 0000
BOSWYCK D OFFORD, 0000
SONJA M PERRY, 0000
MICHAEL RIGGINS, 0000
PAMELA R RUSSELL, 0000
CHRISTOPHER P SLATTERY, 0000
ABRAHAM A THOMPSON, 0000
RICHARD L WATERS, 0000
ROBERT E WHITE II, 0000
CHRISTOPHER J WILLIAMS, 0000
DOUGLAS M ZANDER, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

AMADO F ABAYA, 0000
JAMES R ACKERMAN II, 0000
CHRISTINE N ACTON, 0000
CHRISTOPHER J ADAMS, 0000
DOUGLAS J ADAMS, 0000
NEAL D AGAMAITE, 0000
GEORGE R AGUILAR, 0000
MARIO A AGUILAR, 0000
ROBERT W AGUILERA, 0000
IVAN L AGUIRRE, 0000
ELLER V AIELLO, 0000
LEOPOLDO S J ALBEA, 0000
KRISTINE E ALEXANDER, 0000
BRENT A ALFONZO, 0000
BENJAMIN J ALLBRITTON, 0000
JASON C ALLEYNE, 0000
QUINO P ALONZO JR., 0000
CHRISTOPHER S AMADOR, 0000
GARY T AMBROSE, 0000
MICHAEL T AMOS, 0000
KEVIN W ANDERSEN, 0000
DAVID R ANDERSON, 0000
EDWARD T ANDERSON, 0000
JAMES A ANDERSON, 0000
MARK E ANDERSON, 0000
ROBERT W ANDERSON, 0000
ERIC J ANDUZE, 0000
DAVID R APPEL, 0000
CHRISTOPHER E ARCHER, 0000
MATTHEW L ARNY, 0000
MARTIN F ARRIOLA, 0000
GARRETT C ARTZ, 0000
ARLEN E ASPENSON, 0000
MARK R ASUNCION, 0000
ROBERTO J ATHA JR., 0000
TINA M ATHANS, 0000
CHRISTOPHER J ATKINSON, 0000
KEVIN L AUSTIN, 0000
ARVIS V I AVERETTE, 0000
ROBERT L BAHR, 0000
EUGENE R BAILEY, 0000
ANTHONY P BAKER, 0000
BOBBY J BAKER, 0000
BRETT T BAKER, 0000
CHAD E BAKER, 0000
JEFFREY W BAKER, 0000
THOMAS R BAKER, 0000
THOMAS A BALCH, 0000
JOHN A BALTES, 0000
ROBERT J BANASIEWICZ, 0000
THOMAS D BARBER, 0000
CHARLES E BARE II, 0000
BUFORD D BARKER, 0000
JOSEPH W BARNES, 0000
TIMOTHY A BARNEY, 0000
JONATHAN B BARON, 0000
WILLIAM A BARTLE, 0000
JAMES L BASFORD, 0000
SHANNON S BASSI, 0000
KENNETH R BATES, 0000
DANIEL V BAXTER, 0000
JOSEPH M BAXTER, 0000
JAMES R BEASLEY, 0000
ANDREW E BECKER, 0000
CURTIS A BECKER JR., 0000
BRIAN R BEHLKE, 0000
RODNEY T BEHREND, 0000
JAMES W BELL, 0000
SCOTT A BELL, 0000
DOUGLAS S BELVIN, 0000
JAMES A BELZ, 0000
JEFFREY A BENSON, 0000
ANDREW R BENZ, 0000
BUDD E BERGLOFF, 0000
PAUL J BERNARD, 0000
JEFFREY A BERNHARD, 0000
PETER R BERNING, 0000
JAMES M BILOTTA, 0000
ANDREW T BISHOP, 0000
TANIA M BISHOP, 0000
KEVIN T BLACK, 0000
MICHAEL F BLACK, 0000
MICHAEL S BOBULINSKI, 0000
JOSEPH W BOCHENEK, 0000
SCOTT A BOEDEKER, 0000
MATTHEW D BOHLIN, 0000
DELONG BONNER, 0000
MATTHEW J BONNER, 0000
SCOTT P BONZ, 0000
JOHN D BOONE, 0000
MICHAEL J BOONE, 0000
NATHAN P BORCHERS, 0000
JAMES P M BORGHARDT, 0000
KELLY K BORING, 0000
JEFFREY S BOROS, 0000
CATHERINE S BOULWARE, 0000
BRIAN J BOUTOT, 0000
MATTHEW R BOWMAN, 0000
COLIN A BOWSER, 0000
DIMITRI C BOYACI, 0000
LESLIE W BOYER III, 0000
KEVIN P BOYKIN, 0000
JAMES G BOYLAND, 0000
JOSEPH P BOZZELLI, 0000
GREGORY M BRADLEY, 0000
ABABETH M BRAMAN, 0000
KEVIN M BRAND, 0000
MICHAEL S BRAUN, 0000
NEIL M BRENNAN, 0000
DAVID A BRETZ, 0000
PETER J BREWSTER, 0000
ANTHONY R BREYER, 0000
GEORGE D BRICKHOUSE III, 0000
BRADEN O BRILLER, 0000
JENKS D BRITT, 0000

JESSE L BRITTAIN, 0000
LARON B BROADNAX, 0000
ROBERT D BRODIE, 0000
AARON G BRODSKY, 0000
BRIAN B BRONK, 0000
DAVID L BROOKS, 0000
CHARLES W BROWN IV, 0000
CHRISTOPHER K BROWN, 0000
COREY L BROWN, 0000
JAMES E BROWN, 0000
CHADWICK B BRYANT, 0000
WILLIAM A BUCKNER, 0000
ROSS S BUDGE, 0000
NICHOLIE T BUFKIN, 0000
DWAYNE E BURBRIDGE, 0000
MARK E BURCHER, 0000
MICHAEL L BURD, 0000
ROBERT C BURDEAUX, 0000
COLVERT P BURGOS, 0000
MICHAEL J BURIANEK, 0000
THEODORE M BURK, 0000
BRIAN J BURKE, 0000
VORRICE J BURKS, 0000
JASON A BURNS, 0000
MATTHEW J BURNS, 0000
GREGORY D BYERS, 0000
JOSEPH M BYRD, 0000
KEVIN P BYRNE, 0000
MARCELLO D CACERES, 0000
JOSEPH F CAHILL III, 0000
MARK A CALDERON, 0000
DANIEL W CALDWELL, 0000
PAUL F CAMPAGNA, 0000
KYLE R CAMPBELL, 0000
RONNIE M CANDILORO, 0000
JOHN E CAPIZZI, 0000
MARC G CARLSON, 0000
ARON S CARMAN, 0000
JOSEPH A CARNELL, 0000
GREGORY P CARO, 0000
JOHN G CARPENTIER, 0000
JOSEPH CARRIGAN, 0000
CHRISTOPHER S CARROLL, 0000
DANIEL G CASE, 0000
ROBERT A CASPER JR., 0000
CHRISTOPHER J CASSIDY, 0000
CLINTON J CATES, 0000
SEAN P CAVAN, 0000
CHRISTOPHER J CAVANAUGH, 0000
THOMAS C CECIL, 0000
PETER J CECILIA JR., 0000
JONATHAN L CHADWICK, 0000
JOHN L CHAPLA, 0000
GREGORY F CHAPMAN, 0000
STEPHEN C CHAPMAN, 0000
STEPHEN P CHEELEY, 0000
CHI K CHEUNG, 0000
JEFFREY A CHILDERS, 0000
JOHN S CHRISTENSEN, 0000
RYAN G CHRISTOPHERSON, 0000
BRYANT T CHURCH, 0000
CARLOS J CINTRON, 0000
CHRISTOPHER J CIZEK, 0000
JEFFREY J CLARKSON, 0000
PHILLIP Z CLAY, 0000
DUNCAN M CLENDENIN, 0000
GWEN D G CLIFFORD, 0000
BRYAN M COCHRAN, 0000
LANCE A COLLIER, 0000
CHRISTOPHER I COLLING, 0000
MATTHEW B COMMERFORD, 0000
CHARLES P CONE, 0000
MICHAEL P CONNOR, 0000
ERIC L CONZEN, 0000
TIMOTHY M COOPER, 0000
PETER A CORRAO JR., 0000
RICKY R COSTNER, 0000
GREGORY B COTTEN, 0000
FREDERICK D COTTS, 0000
ROBERT COUGHLIN, 0000
SHAWN R COWAN, 0000
WILLIAM T COX JR., 0000
RAYMOND T COZINE, 0000
JOHN S CRANSTON, 0000
FREDERICK E CRECELIUS, 0000
RONALD L CREEL, 0000
MICHAEL C CRISP, 0000
ROBERT D CROXSON, 0000
PAUL A CRUMP, 0000
ADAN G CRUZ, 0000
YNIOL A CRUZ, 0000
KRISTEN W CULLER, 0000
CORY L CULVER, 0000
PATRICK J CUMMINGS, 0000
WILSON J CURRENT, 0000
TIMOTHY S CURRY, 0000
SCOTT B CURTIS, 0000
SEAN T CUSHING, 0000
PETER M CUTSUMBIS, 0000
SARAH A DACHOS, 0000
WILLIAM R DALY, 0000
MICHAEL J DAMICO, 0000
RODNEY D DANIELS, 0000
ANDREW D DANKO, 0000
JOHN C DANKS, 0000
WILLIAM A DAROSA, 0000
TODD J DARWIN, 0000
JACE F DASENBROCK, 0000
GEORGE A DAVIS, 0000
GREGORY P DAVIS, 0000
STEPHEN C DAVIS, 0000
DAVID C DAYS, 0000
DENNIS A DEBOBES, 0000
ANTONIO DEFRIAS JR., 0000
DANIEL M DEGNER, 0000
STEPHEN J DELANTY, 0000
DINO S DELEO, 0000
STEVEN H DEMOSS, 0000
HOMER R DENIUS III, 0000
ROBERT DENTON III, 0000
TERENCE P DERMODY, 0000
STEVEN F DESANTIS, 0000
STANLEY J DESLICH, 0000
RALPH F DEWALT II, 0000
MICHAEL D DEWULF, 0000
BRIEN W DICKSON, 0000
MICHAEL R DICKSON, 0000
CHRISTOPHER S DIGNAN, 0000
RODRIGO M DILL, 0000
PHILLIP S DOBBS, 0000
SHAWN C DOMINGUEZ, 0000
PETER J DONAHER III, 0000
MARK M DONAHUE, 0000
ELLIOTT J DONALD, 0000
LEE A DONALDSON, 0000
DENISE M DONNELL, 0000
BRAD P DONNELLY, 0000
JOHN W DOOLITTLE, 0000
THOMAS C DORAN, 0000
LAWRENCE T DORN, 0000
RANDY A DOSSEY, 0000
BRIAN P DOUGLASS, 0000
DAVID M DOWLER, 0000
GEORGE B DOYON JR., 0000
BRIAN C DOZIER, 0000
JEFFREY J DRAEGER, 0000
MARC E DROBNY, 0000
RICHARD F DUBNANSKY JR., 0000
TODD C DUDLEY, 0000
JUSTIN E DUGGER, 0000
CHRISTIAN A DUNBAR, 0000
CURTIS B DUNCAN, 0000
BRYAN W DURKEE, 0000
KEVIN L DUZAN, 0000
CLINTON S EANES, 0000
MICHAEL G EARL, 0000
DOUGLAS E EDGE, 0000
JEFFREY W EGGERS, 0000
ANDREW C EHLERS, 0000
KEITH D EITNER, 0000
NATHAN J ELDER, 0000
JAMES J ELIAS, 0000
MATTHEW S ELLIA, 0000
JENNIFER L ELLINGER, 0000
CARLTON T ELLIOTT, 0000
MICHAEL ELLIOTT, 0000
TONY L ELLIS, 0000
WILLIAM R ELLIS JR., 0000
II T S ELLISON, 0000
PHILIP L ENGLE JR., 0000
JOSHUA G ENGLISH, 0000
BRIAN ERICKSON, 0000
DAVID G ERICKSON, 0000
GREGORY J ERICKSON, 0000
ERIK J ESLICH, 0000
DANILO A ESPIRITU, 0000
KEVIN W EVANS, 0000
THOMAS E EWING, 0000
DOUGLAS A FACTOR, 0000
DANIEL S FAHEY, 0000
JEFFREY N FARAH, 0000
MICHAEL G FARREN, 0000
STEPHEN T FAUST, 0000
ROBERT K FEDERAL III, 0000
BRIAN M FERGUSON, 0000
JOHN H FERGUSON, 0000
KENNETH L FERGUSON, 0000
BRYAN J FETTER, 0000
LESLEY J FIERST, 0000
MATTHEW D FINNEY, 0000
FULVIA M FIORANI, 0000
NICHOLAS J FIORE, 0000
STEPHEN B FIRESTONE, 0000
THOMAS J FLANNERY, 0000
MICHAEL T FLEETWOOD, 0000
JACK C FLETCHER II, 0000
JORGE R FLORES, 0000
IDELLA R FOLGATE, 0000
JOSEPH C FORAKER III, 0000
DARYL D FOSTER, 0000
MICHAEL A FOX, 0000
RONALD A FOY, 0000
RAY A FRANKLIN II, 0000
MICHAEL G FRANTZ, 0000
FRANK R FULLER, 0000
WARDELL C FULLER, 0000
BRETT T FULLERTON, 0000
GEORGE G FUTCH, 0000
DAVID O GADDIS, 0000
GREGORY J GAHLINGER, 0000
ANDREW D GAINER, 0000
MICHAEL P GALLAGHER, 0000
TIMOTHY J GALLAGHER, 0000
DAVID M GALLOWAY, 0000
FERNANDO GARCIA, 0000
KARL GARCIA, 0000
ERIC J GARDNER, 0000
JOSHUA H GATES, 0000
JOHN A GEARHART, 0000
JAMES L GEICK, 0000
DANIEL GEIGER, 0000
MARC A GENUALDI, 0000
MELISSA J GERACE, 0000
JOHN D GERKEN, 0000
JEFFREY T GIBBONS, 0000
LEANA R GILLI, 0000
DENNIS T GINN, 0000
DAVID A GIVEY, 0000
DARREN W GLASER, 0000
GEORGE F GLAZE III, 0000
ANTHONY S GLOVER, 0000
BENNETT R GLOVER, 0000
FREDERIC C GOLDHAMMER, 0000
ISSAC GONZALEZ, 0000
KYLE P GORDY, 0000
TUAN A GORMICAN, 0000
MICHAEL J GRABOWSKI, 0000
GREGORY L GRADY, 0000
MATTHEW M GRAHAM, 0000
ANDREW G GRANT, 0000
WAYNE G GRASDOCK, 0000
CHARLES R GRASSI, 0000
MARIA L GRAUERHOLZ, 0000
HOWARD C GRAY, 0000
DANIEL E GREENE, 0000
JASON P GREENE, 0000
DARRELL S GREGG, 0000
JOHN D GREMILLION, 0000
ERIK W GREVE, 0000
MARK D GROB, 0000
DAVID E GROGAN, 0000
EDWIN J GROHE JR., 0000
TIMOTHY S GUDUKAS, 0000
WAYNE D GUNTHER, 0000
GENE M GUTTROMSON, 0000
THOMAS D HACKER, 0000
FERDINAND G HAFNER, 0000
ORLOFF L R HAGENDORF, 0000
GREGORY C HAIRSTON, 0000
WILLIAM E HAMILTON, 0000
JASON G HAMMOND, 0000
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BRANDAN D HARRIS, 0000
GALEN R HARTMAN, 0000
JASPER C HARTSFIELD, 0000
JOEL HARVEY, 0000
MONTY L HASENBANK, 0000
VERNON HASTEN, 0000
PAUL F HASTIE, 0000
MICHAEL E HAYES, 0000
GREGORY T HAYNES, 0000
ALBON O HEAD III, 0000
KEVIN P HEALY, 0000
BRYN J HENDERSON JR., 0000
SCOTT A HENDRIX, 0000
DARRYL W HENSLEY, 0000
SCOTT M HIELEN, 0000
SEAN P HIGGINS, 0000
ROBIN L HIGGS, 0000
STEPHEN F HIGUERA, 0000
CLAYTON O HILL, 0000
CRAIG A HILL, 0000
JEREMY R HILL, 0000
ROBERT A HILL, 0000
ALLEN L HOBBS, 0000
BERTRAM C HODGE, 0000
TODD A HOFSTEDT, 0000
AARON M HOLDAWAY, 0000
MARK D HOLMES, 0000
MARK F HOLZRICHTER, 0000
PATRICK C HONECK, 0000
DALE C HOOVER, 0000
DAVID HOPPER, 0000
MONROE M HOWELL II, 0000
CORY R HOWES, 0000
JOHN L HOWLAND, 0000
MICHAEL M H HSU, 0000
GREGORY W HUBBARD, 0000
MARC A HUDSON, 0000
ANTONIO D HULL, 0000
JAMES H HUMPHREY, 0000
KELLY S HURST, 0000
MARK C HUSTIS, 0000
CRAIG D HUTCHINSON, 0000
JOSEPH A HUTCHINSON, 0000
MATTHEW P HYDE, 0000
ROBERT H HYDE, 0000
DANIEL D IMBAT, 0000
MARK A IMBLUM, 0000
JOSEPH P IRETON JR., 0000
CHRISTOPHER C ISBELL, 0000
JONATHAN L JACKSON, 0000
STEPHEN J JACKSON, 0000
TIMOTHY C JACKSON, 0000
BRADLEY D JACOBS, 0000
GERALD D JACQUES, 0000
DAVID C JAMES, 0000
OMAR E JANA, 0000
THOMAS J JANKOWSKI, 0000
JOEL W JANOPOULOS, 0000
BYRON W JENKINS, 0000
JOHN D JESSUP II, 0000
WILLIAM H JEWETT III, 0000
DAVID E JOHNSON, 0000
DAVID R JOHNSON, 0000
ERIC R JOHNSON, 0000
HIRAM S JOHNSON, 0000
MARK E JOHNSON, 0000
MICHAEL B JOHNSON, 0000
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STEVIN S JOHNSON, 0000
VINCENT R JOHNSON, 0000
WILLIAM D JOHNSTON, 0000
ETTA C JONES, 0000
JEFFREY E JONES, 0000
THOMAS C KAIT JR., 0000
WLANCE KALLEBERG, 0000
SCOTT C KANE, 0000
WILLIAM R KANE, 0000
RONALD J KARUN JR., 0000
TAMARA L KARWOSKI, 0000
KRISTOPHER M KASCHAK, 0000
PHILIP J KASE, 0000
DANIEL J KECK, 0000

MARK W KEKEISEN, 0000
STEPHEN A KELLEY, 0000
RICHARD M KELLY, 0000
GLENN D KELSO, 0000
MARK T KELSO, 0000
MARK P KEMPF, 0000
COREY J KENISTON, 0000
JOHN D KENNARD, 0000
MATTHEW J KENNEDY, 0000
PHILLIP A KENT, 0000
ROBERT R KENYON, 0000
GREGORY R KERCHER, 0000
CALEB A KERR, 0000
DAVID S KERSEY, 0000
TIMOTHY N KETTER, 0000
LISA L KETTERMAN, 0000
PAUL R KEYES, 0000
MICHAEL M KIBLER, 0000
MARTIN P KIESEL, 0000
JENNIFER A KIGGANS, 0000
STEVEN W KIGGANS, 0000
ANDREW J KIMSEY, 0000
JEFFERY T KING, 0000
KEITH R KINTZLEY, 0000
CHRISTOPHER J KIPP, 0000
BRIAN D KIRK, 0000
ANDREW A KISS, 0000
JEFFREY M KLAMERUS, 0000
DENNIS J KLEIN, 0000
KEVIN J KLEIN, 0000
DAVID W KLIEMANN, 0000
MITCHEL J KLOEWER, 0000
GREGORY D KNEPPER, 0000
CARY M KNOX, 0000
KIRK A KNOX, 0000
ANDREW P KOELSCH, 0000
MICHAEL J KOEN, 0000
RICHARD W KOENIG, 0000
BRYAN W KOON, 0000
ROBERT A KOONCE, 0000
KARL W KOTTKE, 0000
PHILIP J KOTWICK, 0000
SCOTT H KRAFT, 0000
JEFFREY K KRAUSE JR., 0000
JAMES W KUEHL, 0000
PATRICK E KULAKOWSKI, 0000
DOUGLAS W KUNZMAN, 0000
ARMEN H KURDIAN, 0000
MATTHEW A LABONTE, 0000
THOMAS P LABOR, 0000
JON P R LABRUZZO, 0000
KEVIN R LACKIE, 0000
ROBERT T LACY, 0000
ANDREW D LAMORIE, 0000
HANS P LANDEFELD, 0000
GEORGE M LANDIS III, 0000
PATRICK S LANEY, 0000
CHAD M LARGES, 0000
CRAIG R LARSON, 0000
WILLIAM M LAUPER, 0000
WILLIAM T LAYTON, 0000
MARK S LEAVITT, 0000
SCOTT H LEDIG, 0000
FITZHUGH S LEE, 0000
HEATHER B LEE, 0000
STEVEN S LEE, 0000
JERRY W LEGERE, 0000
CHRISTOPHER L LEGRAND, 0000
PATRICK R LEHMAN, 0000
JOHN R LESKOVICH, 0000
CHRIS W LEWIS, 0000
JAMES G LEWIS, 0000
SEAN M LEYDEN, 0000
MICHAEL LIBERATORE, 0000
CARL M LIBERMAN, 0000
DARYL W LIERMAN, 0000
ROBERT W LINDER, 0000
ERIC C LINDFORS, 0000
ROBERT J LINEBARGER, 0000
HOWARD B LINK JR., 0000
JEFFREY G LINVILLE, 0000
STEVEN C LIPPINCOTT, 0000
JONATHAN D LIPPS, 0000
DOUGLAS W LITO, 0000
KIRK J LOFTUS, 0000
ROBERT M LOHMAN JR., 0000
CHARLES E LOISELLE, 0000
KEVIN D LONG, 0000
TIFFANY L LORD, 0000
THOMAS D LOUWERS, 0000
ROY LOVE, 0000
JAMES P LOWELL, 0000
RODGER D LOWER, 0000
MICHAEL D LOWRY, 0000
MICHAEL E LOWRY, 0000
JAMES J LUCAS, 0000
JEFFREY R LUCE, 0000
LANCE J LUKSIK, 0000
STEVEN J LUND, 0000
RICHARD P MACCABE, 0000
JONATHAN D MACDONALD, 0000
GERALD J MACENAS II, 0000
LLOYD B MACK, 0000
JOSEPH R MACKAY, 0000
IAN A MACKINNON, 0000
MICHAEL D MACNICHOLL, 0000
CHRISTOPHER D MAJORS, 0000
RAMON A MALDONADO, 0000
PHILIP E MALONE, 0000
MICHAEL R MANSISIDOR, 0000
NORMAN E MAPLE, 0000
RAYMOND MARCIANO II, 0000
MARK L MARINAC, 0000
JON C MARLAR, 0000
MICHAEL H MARRINAN, 0000
CHRISTOPHER D MARSH, 0000
FRANKLIN K MARSTON, 0000
CHRISTOPER T MARTIN, 0000
VINCENT S MARTIN, 0000
TODD R MARZANO, 0000
MARK A MARZONIE, 0000
MATTHEW J MASON, 0000
RICHARD N MASSIE, 0000
ANTHONY P MASSLOFSKY, 0000
STEVEN J MATHEWS, 0000
STUART M MATTFIELD, 0000
THOMAS L MATTOX, 0000
JAY A MATZKO, 0000
TODD A MAUERHAN, 0000
SHAUN C MCANDREW, 0000
JAMES A MCCALL III, 0000
WILLIAM D MCCARTHY, 0000
ERIC D MCCARTY, 0000
ROBERT A MCCORMICK JR., 0000
ARNOLD S MCCOY, 0000
LARRY G MCCULLEN, 0000
RICHARD C MCDANIEL, 0000
SEAN P MCDERMOTT, 0000
ANDREW J MCFARLAND, 0000
KATHERINE L MCGILL, 0000
CHRISTOPHER F MCHUGH, 0000
JAMES S MCJOYNT, 0000
JOHN M MCKEON JR., 0000
KEVIN M MCLAUGHLIN, 0000
COLIN M MCLEAN, 0000
BOBBY D MCPHERSON II, 0000
GREGORY E MCRAE, 0000
BRYAN S MCROBERTS, 0000
MICHAEL T MCVAY, 0000
JOHN J MEAGHER, 0000
NICHOLAS J MELFI III, 0000
WILLIAM R MELLEN, 0000
MARK A MELSON, 0000
JOHN P MERLI, 0000
CHARLES S MERRILL IV, 0000
ROGER E MEYER, 0000
JAMES E MILLER, 0000
JEFFREY A MILLER, 0000
DENNIS I MILLS, 0000
PETER A MILNES, 0000
KENNETH MILVID JR., 0000
LUIS E MOLINA, 0000
JOHN J MOLINARI, 0000
KURT A MONDLAK, 0000
THOMAS P MONINGER, 0000
CHRISTOPHER T MONROE, 0000
BENNETT N MONTERO, 0000
DAVID J MONTGOMERY II, 0000
JOHN F MONTGOMERY, 0000
RICHARD S MONTGOMERY, 0000
JAMES E MOONIER III, 0000
KENT W MOORE, 0000
MARC H MOORE, 0000
CHRISTOPHER L MOOREHEAD, 0000
BRETT J MORASH, 0000
DENNIS D J MOREK, 0000
EDGARDO A MORENO, 0000
CHARLES D MORGAN JR., 0000
WALTER S MORGAN, 0000
DANIEL MORITSCH, 0000
MATTHEW G MORRIS, 0000
DONALD E MORROW, 0000
BRANDT A MOSLENER, 0000
JOEL E MOSS, 0000
NATHAN J MOYER, 0000
BRETT D MOYES, 0000
TEDD N MUERY, 0000
THOMAS H MULDROW JR., 0000
JEFFREY D MULKEY, 0000
MICHAEL MULLEN, 0000
KURT W MULLER, 0000
MICHAEL D MULLOY, 0000
SCOTT T MULVEHILL, 0000
STEVEN P MURLEY, 0000
CHARLES G MURPHY, 0000
THOMAS P MURPHY, 0000
JAMES M MUSE, 0000
JERRY L MYERS JR., 0000
MICHAEL J NADEAU, 0000
VAL D NAFTALI, 0000
WYATT J NASH, 0000
STEVEN T NASSAU, 0000
ANDREW C NELSON, 0000
JACOB A NELSON, 0000
JOSEPH W NELSON, 0000
MARK B NELSON, 0000
LAWRENCE J NEVEL, 0000
GREGORY D NEWKIRK, 0000
JOSHUA G NEWSTEDER, 0000
BENJAMIN R NICHOLSON, 0000
JEREMY C NIKEL, 0000
ERIK R NILSSON, 0000
JEFFREY J NOLAN, 0000
FRANCIS P NOTZ, 0000
JAMES P NUNN, 0000
JOSEPH R OBRIEN, 0000
DONALD C ODEN, 0000
KEVIN H ODLUM, 0000
WAYNE D OETINGER, 0000
NATHAN R OGLE, 0000
NORA C OHARA, 0000
DAVIN J OHORA, 0000
JOHN W OLIVER JR., 0000
LAWRENCE D OLLICE JR., 0000
BRIAN J OLSWOLD, 0000
DANIEL P ONEAL, 0000
CHRISTOPHER D ORR, 0000
ALEJANDRO E ORTIZ, 0000
ERIK W OSTROM, 0000
GREGORY A OUELLETTE, 0000
ALFRED J OWINGS II, 0000
BRAULIO PAIZ, 0000
TERRELL K PANKHURST, 0000
CAREY M PANTLING, 0000
MATTHEW C PARADISE, 0000
CORINNE R PARKER, 0000
JAMES B PARKERSON, 0000
KEVIN J PARKS, 0000
ERIK R PATTON, 0000
THOMAS C PAUDLER, 0000
RICHARD H PAYNE, 0000
DONALD E PEACOCK II, 0000
GREGORY P PEDERSON, 0000
JIMMY W PELTON, 0000
MARK C PERREAULT, 0000
SIL A PERRELLA, 0000
BRADLEY S PERRIN, 0000
JOHN E PERRONE, 0000
DAVID R PERRY, 0000
GEORGE M PERRY, 0000
VINCENT J PERRY, 0000
KENT E PETERSON, 0000
WILLIAM A PETERSON, 0000
ROBERT A PETRICK, 0000
TODD O PETTIBON, 0000
JAMES B PFEIFFER, 0000
DOUGLAS M PHELAN, 0000
JOHN B PICCO, 0000
DUSTINE PIERSON, 0000
JASON L PIKE, 0000
JAMES M PIOTROWSKI, 0000
THOMAS E PLOTT II, 0000
MICHAEL J PLOWMAN, 0000
DARREN R POORE, 0000
JOHN R POPE, 0000
MICHAEL A PORTER, 0000
MATTHEW R POTHIER, 0000
STEVEN N POTOCHNIAK, 0000
GERALD R PRENDERGAST, 0000
CHRISTOPHER A PRESZ, 0000
JOB W PRICE, 0000
JOSHUA D PRICE, 0000
KARL F PRIGGE, 0000
THEODORE A PRINCE, 0000
WILLIAM C PUGH, 0000
MICHAEL G QUAN, 0000
KEVIN M QUARDERER, 0000
VICTORIA L QUINN, 0000
KENNETH N RADFORD, 0000
KEVIN S RAFFERTY, 0000
ANDRE L RAGIN, 0000
ROLANDO RAMIREZ, 0000
PAUL E RASMUSSEN, 0000
WERNER J RAUCHENSTEIN, 0000
JAMES G REA, 0000
STEPHEN E READY, 0000
MICHAEL J REAGAN, 0000
TOBY E REAM, 0000
CHAD B REED, 0000
JEFFREY R REGISTER, 0000
JOHN K REILLEY, 0000
PAUL M REIS, 0000
CRAIG M REMALY, 0000
JEFFREY S REUTER, 0000
MANUEL REYES, 0000
MARK C REYES, 0000
JOSHUA S REYHER, 0000
JAMES P REYNOLDS, 0000
LORN D REYNOLDS, 0000
PATRICK L REYNOLDS, 0000
ALBERT E RICE, 0000
THOMAS D RICH, 0000
JUSTIN B RICHARDS, 0000
DAVID B RICHARDSON, 0000
JASON L RIDER, 0000
RICHARD C RIGGS, 0000
STEVEN C ROBERTO JR., 0000
BUCKY J ROBERTS, 0000
MATTHEW C ROBERTS, 0000
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DANIEL S ROBERTSON JR., 0000
DENNIS A ROBERTSON, 0000
MICHAEL P ROBERTSON, 0000
MICHAEL P ROBLES, 0000
DAVID G ROCKWELL, 0000
MARC D RODRIGUEZ, 0000
ERICH P ROETZ, 0000
VICTOR M ROMAN JR., 0000
ROBERT J ROSALES, 0000
HOLLY A ROSENBERG, 0000
DAVID R ROSETTER, 0000
REY R ROSS, 0000
RICHARD K ROSSETTI, 0000
KENNETH S ROTHAERMEL, 0000
DAVID M ROWLAND, 0000
MICHAEL R ROYLE, 0000
JONATHAN E RUCKER, 0000
JOHN C RUDELLA, 0000
ANDREW M RUIZ, 0000
ROME RUIZ, 0000
BRET A RUSSELL, 0000
JONATHAN C RUSSELL, 0000
DANIEL K RYAN JR., 0000
DANIELLE A RYAN, 0000
DOUGLAS A SAARELA, 0000
GREGORY A SAKRYD, 0000
MICHAEL S SALING, 0000
WESLEY S SANDERS, 0000
DAVID M SANFIELD, 0000
THOMAS M SANTOMAURO, 0000
DOUGLAS W SASSE III, 0000
DAVID C SASSER, 0000
SAMANTHA J SAXTON, 0000
MICHAEL D SCHAFER, 0000
DAVID J SCHLESINGER, 0000
KEVIN J SCHMIDT, 0000
ROBERT D SCHOEFFLING, 0000
MARK A SCHRAM, 0000
KORY L SCHROEDER, 0000
JOHN P SCHULTZ, 0000
KARL U SCHULTZ, 0000

PATRICK B SCOTT, 0000
RICHARD I SCRITCHFIELD, 0000
FRANK A SCRIVENER III, 0000
JEFFREY L SCUDDER, 0000
DAVID C SEARS, 0000
HIPOLITO D SEBASTIAN, 0000
MATTHEW T SECREST, 0000
ERIC O SEIB, 0000
MARK R SEIGH, 0000
DAVID G SELANDER, 0000
ANTONIN Z SERGELIN, 0000
SHANTI R SETHI, 0000
SCOTT R SEYFARTH, 0000
DAVID K SHAFFER, 0000
ANDREW J SHANK, 0000
ROBERT C SHASSBERGER, 0000
TRACY J SHAY, 0000
FRANK C SHELLY, 0000
JAMES A SHOENBERGER, 0000
JUSTIN L SHOGER, 0000
MAXWELL J SHUMAN, 0000
DEAN W SIBLEY, 0000
LARRY A SIDBURY, 0000
DOUGLAS J SIEMONSMA, 0000
KEITH R SILINSKY, 0000
TIMOTHY L SIMONSON, 0000
TYREL T SIMPSON, 0000
THOMAS W SINGLETON, 0000
LEE P SISCO, 0000
WARREN E SISSON, 0000
CHARLES W SITES, 0000
BRIAN L SITTLOW, 0000
DARREN J SKINNER, 0000
QUINN D SKINNER, 0000
STEVEN J SKRETKOWICZ, 0000
JAMES C SLAIGHT, 0000
STEVEN J SLATER, 0000
JULIA L SLATTERY, 0000
TIMOTHY J SLENTZ, 0000
STEPHEN E SMALL, 0000
CARL C SMART, 0000
BENJAMIN P SMITH, 0000
BRIAN E SMITH, 0000
CHRISTOPHER P SMITH, 0000
GREGORY A SMITH, 0000
QUWAN A SMITH, 0000
ROBERT S SMITH, 0000
THADEOUS C SMITH, 0000
WILLIAM A SMITH IV, 0000
CRAIG M SNYDER, 0000
WILLIAM H SNYDER III, 0000
ERIC A SODERBERG, 0000
TROY A SOLBERG, 0000
DAVID M SOUZA, 0000
JOHN D SOWERS, 0000
JEFFREY R SOWINSKI, 0000
MICHAEL T SPENCER, 0000
STEPHEN O SPRAGUE, 0000
SCOTT S SPRINGER, 0000
WILLIAM B STAFFORD, 0000
BRUCE R STANLEY JR., 0000
JOSEPH M STAUD, 0000
PETER S STAVELEY, 0000
MARK O STEARNS, 0000
JEFFREY C STEVENS, 0000
AMOS STIBOLT, 0000
JONATHAN L STILL, 0000
THOMAS D STOREY, 0000
GREGORY P STPIERRE, 0000
TABB B STRINGER, 0000
KENNETH A STRONG, 0000
JASON J STRUCK, 0000
MICHAEL D STULL, 0000
ALBERT F STUMM III, 0000
NATHAN B SUKOLS, 0000
DANIEL J SULLIVAN IV, 0000
JEFFREY M SULLIVAN, 0000
JOHN D SULLIVAN, 0000
MICHAEL T SULLIVAN, 0000
MICHAEL R SUTTON, 0000
TIMOTHY E SYMONS, 0000
PAUL J TABAKA, 0000
GREGORY J TACZAK, 0000
SCOTT A TAIT, 0000
SHANE P TALLANT, 0000
MARK W TANKERSLEY, 0000
JON M TAYLOR, 0000
BENJAMIN J TEICH, 0000
ANTONIO TELLADO, 0000
JASON A TEMPLE, 0000
CRAIG R TESSIN, 0000
MATTHEW A TESTERMAN, 0000
JOSEPH C THOMAS, 0000
PATRICK W THOMPSON, 0000
ROBERT S THOMPSON, 0000
WILLARD L THOMPSON, 0000
COURTNEY L TIERNEY, 0000
JOHN A TIERNEY, 0000
NICHOLAS R TILBROOK, 0000
KELLY M TIN, 0000
JEFFREY S TODD, 0000
JOHN D TOLG, 0000
JAMES H TOOLE, 0000
RAMBERTO A TORRUELLA, 0000
RICHARD A TREVISAN, 0000
BRENT A TRICKEL, 0000
JEFFREY D TROYANEK, 0000
SCOTT S TROYER, 0000
CARIN C TULLOS, 0000
RODNEY L TURBAK, 0000
KYLE T TURCO, 0000
EDWARD D TURCOTTE, 0000
JOHN N TURNIPSEED, 0000
RONALD W UHLIG, 0000
STEPHEN O ULATE, 0000
DAVID F USON, 0000
RICHARD A VACCARO, 0000
SAM J VALENCIA, 0000
WESLEY W VALUS, 0000
CHRISTOPHER E VANAVERY, 0000
TODD D VANDEGRIFT, 0000
STEPHEN J VANLANDINGHAM, 0000
JONATHON J VANSLYKE, 0000
TIMOTHY T VECCIA, 0000
BILLY J VEGARA, 0000
FRANK M VERDUCCI JR., 0000
GUSTAVO J VERGARA, 0000
JIANCARLO VILLA, 0000
PETER VILLANO, 0000
CHAD P VINCELETTE, 0000
FREDRICK S VINCENZO, 0000
JESSE L VIRANT, 0000
KEVIN S VOAS, 0000
FRANK P VOLPE JR., 0000
CHAD G WAHLIN, 0000
GEORGE A WALBORN II, 0000
PETER J WALCZAK, 0000
PHILIP W WALKER, 0000
RICHARD G WALKER, 0000
JON B WALSH, 0000
ANDREW R WALTON, 0000
DODD D WAMBERG, 0000
KJELL A WANDER, 0000
JOHN M WARD, 0000
JASON D WARTELL, 0000
DEREK L WATSON, 0000
BRUCE J WEBB, 0000
CHAD E WEBSTER, 0000
ROBERT W WEDERTZ, 0000
TODD S WEEKS, 0000
HERSCHEL W WEINSTOCK, 0000
MICHAEL C WELDON, 0000
JOHN M WENKE JR., 0000
STEWART M WENNERSTEN, 0000
MARC A WENTZ, 0000
DEREK S WESSMAN, 0000
MICHAEL T WESTBROOK, 0000
ROBERT D WESTENDORFF, 0000
JOSEPH P WHALEN, 0000
CORY J WHIPPLE, 0000
BENJAMIN W WHITE, 0000
DAVID G WHITEHEAD, 0000
MATTHEW S WHITEHURST, 0000
RICHARD S WHITELEY, 0000
WILLIAM C WHITSITT, 0000
THOMAS D WHYTLAW, 0000
JEFFREY S WILCOX, 0000
STEVEN R WILKINSON, 0000
CLAY G WILLIAMS, 0000
JEROMY B WILLIAMS, 0000
MICHAEL B WILLIAMS, 0000
THOMAS R WILLIAMS II, 0000
TIMOTHY G WILLIAMS, 0000
TROY S WILLIAMS, 0000
IAN O WILLIAMSON, 0000
BRIAN A WILSON, 0000
THOMAS A WINTER, 0000
JONATHAN R WISE, 0000
DONALD WOLFE, 0000
EUGENE M WOODRUFF, 0000
BENJAMIN R WOODS, 0000
ALAN M WORTHY, 0000
MICHAEL S WOSJE, 0000
GEORGE C WRIGHT, 0000
WALTER C WRYE IV, 0000
DONALD E WYATT, 0000
TERRI A YACKLE, 0000
MICHAEL J YAGER, 0000
MELVIN K YOKOYAMA, 0000
LAURENCE M YOUNG, 0000
PAUL D YOUNG, 0000
PHILIP W YU, 0000
MICHAEL S ZANGER, 0000
EDMUND L ZUKOWSKI, 0000
MARK T ZWOLSKI, 0000

CONFIRMATIONS

Executive nominations confirmed by the Senate July 25, 2002:

CONSUMER PRODUCT SAFETY COMMISSION

HAROLD D. STRATTON, OF NEW MEXICO, TO BE CHAIRMAN OF THE CONSUMER PRODUCT SAFETY COMMISSION.

HAROLD D. STRATTON, OF NEW MEXICO, TO BE A COMMISSIONER OF THE CONSUMER PRODUCT SAFETY COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING OCTOBER 26, 2006.

FEDERAL EMERGENCY MANAGEMENT AGENCY

ANTHONY LOWE, OF WASHINGTON, TO BE FEDERAL INSURANCE ADMINISTRATOR, FEDERAL EMERGENCY MANAGEMENT AGENCY.

DISTRICT OF COLUMBIA OFFENDER SUPERVISION, DEFENDER, AND COURTS SERVICES AGENCY

PAUL A. QUANDER, JR., OF THE DISTRICT OF COLUMBIA, TO BE DIRECTOR OF THE DISTRICT OF COLUMBIA OFFENDER SUPERVISION, DEFENDER, AND COURTS SERVICES AGENCY FOR A TERM OF SIX YEARS.

DEPARTMENT OF JUSTICE

TODD WALTHER DILLARD, OF MARYLAND, TO BE UNITED STATES MARSHAL FOR THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF FOUR YEARS.

SECURITIES AND EXCHANGE COMMISSION

PAUL S. ATKINS, OF VIRGINIA, TO BE A MEMBER OF THE SECURITIES AND EXCHANGE COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING JUNE 5, 2003.

CYNTHIA A. GLASSMAN, OF VIRGINIA, TO BE A MEMBER OF THE SECURITIES AND EXCHANGE COMMISSION FOR A TERM EXPIRING JUNE 5, 2006.

HARVEY JEROME GOLDSCHMID, OF NEW YORK, TO BE A MEMBER OF THE SECURITIES AND EXCHANGE COMMISSION FOR THE TERM EXPIRING JUNE 5, 2004.

ROEL C. CAMPOS, OF TEXAS, TO BE A MEMBER OF THE SECURITIES AND EXCHANGE COMMISSION FOR A TERM EXPIRING JUNE 5, 2005.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

ROBERT R. RIGSBY, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF FIFTEEN YEARS.

DEPARTMENT OF JUSTICE

ROSLYNN R. MAUSKOPF, OF NEW YORK, TO BE UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF NEW YORK FOR THE TERM OF FOUR YEARS.

STEVEN D. DEATHERAGE, OF ILLINOIS, TO BE UNITED STATES MARSHAL FOR THE CENTRAL DISTRICT OF ILLINOIS FOR THE TERM OF FOUR YEARS.

THOMAS M. FITZGERALD, OF PENNSYLVANIA, TO BE UNITED STATES MARSHAL FOR THE WESTERN DISTRICT OF PENNSYLVANIA FOR THE TERM OF FOUR YEARS.

G. WAYNE PIKE, OF VIRGINIA, TO BE UNITED STATES MARSHAL FOR THE WESTERN DISTRICT OF VIRGINIA FOR THE TERM OF FOUR YEARS.

DAVID WILLIAM THOMAS, OF DELAWARE, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF DELAWARE FOR THE TERM OF FOUR YEARS.